1990

The Advocate (Vol. 21, Issue 11)

The Cathie Amspacher Swan Song Issue

31 days!

The Advocate

Marshall-Wythe School of Law

America's Oldest Law School

Founded 1779

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Push For Non-Discrimination Clause

Administration Stalls on Amendment

by Jarrell Wright

Alternatives, a campus group dealing with issues pertaining to homosexual and interracial relationships, is seeking a amend the College's Nondiscrimination Policy and Statement of Rights and Responsibilities. Both state that the policy of the College does not discriminate on the basis of sex, disability, race, color, religion, age, or national origin. Alternatives is attempting to get the administration to include "sexual orientation" in that list.

Chris Farris (1L), co-founder of Alternatives said, "it is terrible that discrimination against so many people is tolerated at the College without anybody really caring." He insists that discrimination against homosexuals on campus is rampant, at least in the form of derogatory statements made to homosexuals and a general refusal on the part of others "to treat them like equal human beings." Although he admits that the amendment, even if successful, will not change attitudes overnight, he says that it is important to pass it because of the symbolic value of the administration saying "we will not tolerate this kind of discrimination."

Although the administration and President Verkuil are allegedly opposed to the change, Reginald Clark, Assistant to President Verkuil, said that "the President is not opposed to the amendment. People are looking at the policy and ways that we could change it." According to Farris, no one really knows what the President's position is.

Susan Grover, member of the Faculty Affirmative Action Committee, said that Dean Sullivan has met with President Verkuil to discuss the issue as it relates to the Law School. She said that the amendment is "an issue on the table at the College for campus-wide implementation." The Committee has discussed the issue, but "rather than try to get a consensus on the question, it should wait to see what the administration does."

Farris, whose goal is to have the Law School pass the change by the end of this semester, is afraid of that kind of approach to the issue. "The Law School will wait to see what the College does, and the College will wait to see what the Law School does, and the whole thing will get stalled so that we will have to start all over again next year." The campaign to amend the College's nondiscrimination policy has been going on for three years. Farris said, "we have been constantly led on by the administration. We always think we're close and then we don't get it through. But this is as close as we've ever been."

According to Grover the committee is waiting in "active mode in case the administration decides not to do anything." In the event that the Board of Visitors does not pass the amendment when it meets later this month, Grover says that it is possible that the Law School would take action on its own.

Other colleges across the country have added sexual orientation to the list of classes against which they will not discriminate. One prominent example is the University of Virginia, which, says Farris, is significant because, "that is the school we always try to compare ourselves with."

In addition, the Association of American Law Schools has recommended that member schools, including Marshall-Wythe adopt such a policy. According to Grover, this was one catalyst for the Law School's action on the issue.

Farris circulated a petition last week and collected 225 names from the law school in support of the change, and he said that over 1000 signatures were accumulated campus-wide.

Last month the Faculty Assembly passed a resolution encouraging the administration to amend both statements to include "sexual orientation," but the resolution is only a non-binding recommendation. Nevertheless, Farris was encouraged by this step because he believes that "the administration is more likely to respond to the faculty than to students."

Farris says that one objection to changing the College's policy is that such a change is unnecessary because the College does not tolerate discrimination against homosexuals. Farris concedes that this argument is true, but says that passage of the amendment is still important. "This statement appears to all prospective students, faculty, and the outside world in general," said Farris, who thinks it is important for the College to show the outside world exactly where it stands on the issue.

Election Mishap Brings Election Reform

by Tamara Maddox

Wednesday, March 28, 1990 -- The sun rose on what appeared to be just another routine SBA election, albeit the election for President, the highest office in the Student Bar Association. However, by the time the votes had been counted, the humdrum election process had turned into a minor fiasco, thanks to irregularities in the voting procedure.

RODNEY WILLETT

Judge Mehrige spoke to students as part of PSF week. Cathie Lee (3L) displays what the well-dressed judge always sports.

Four candidates emerged for the Presidential campaign, each with his or her own particular style. Sean McDonough and Caryl Lazzaro, the SBA "regulars" (both having served as officers or representatives for the past two years), might have been expected to be shoe-ins for the presidency. However, George Leedom, a long-active member of the social scene and leader of various activities at Marshall-Wythe, captured the attention of the voters with his unexpected candidacy. In fact, he took an early lead in the polls and received a clear plurality in the original election, obtaining 103 of the 312 votes cast. However, SBA rules require a run-off between the top two candidates unless the lead candidate receives a majority of the votes cast (SBA Constitution, Article 8, § 3 (a)). This clause requiring a run-off election presented the primary difficulty.

Sean McDonough had received 76 votes, and Caryl Lazzaro had received 75. David Boies, an unknown, last-minute candidate whose campaigning had been somewhat minimal, trailed with 57 votes. The campaign kicker was this: after all ballots had been counted and recounted, the Judicial Council encountered a peculiar problem ... *312 ballots existed, but only 304 names had been marked as having voted.* This meant that eight ballots were unaccounted for. Furthermore, it developed that one voter had attempted to place a valid vote for Lazzaro but was told that her name had

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inside this issue:

INTER ALIA

For many of us, this is the last issue of the *Advocate* that we'll see heaped on the lobby floor. For some of us, this is a very liberating sentiment. The past year at the *Advocate* has been challenging but enriching for me. I am now very pleased that I took on this responsibility. But you should have seen me last night.

I have many people to thank for their hard work and inspiration throughout the production year. I am *very* grateful to you. The torch now passes to Steffi Garrett, next year's Editrix-in-Chief, and I wish her all the best. I hope she finds a group of editors and staffers that is as supportive and dedicated as this year's gang.

Third-years are preparing to graduate and disperse to the fabled four corners. Right now we are wondering how three years could have passed. We are wondering how we'll ever remember all we learned during our years here. Sure, things like how to do a nine-point turn out of the Green Leafe parking lot on a Thursday night are skills we'll always embrace. And the experience acquired from studying, socializing, confiding, arguing, eating, sporting, etc with the SAME people ALL THESE DAYS . . . . Well, B.F. Skinner would muse. At times it was little more than tolérance, little more than hell at room temperature. But as we prepare our farewells, we'll have to admit that our dear and often peculiar colleagues have added so much to this experience.

Best of luck on those exams. A final thanks to everyone who contributed to the *Advocate*, those who took a risk and voiced their opinions. That's the kind of thing that keeps the wheels of the press rolling. Best wishes.

m.a.f.

The Advocate

Marshall-Wythe School of Law

A student-edited newspaper, founded in 1969 as successor to the Amicus Curiae, serving the students, faculty and staff of the Marshall-Wythe School of Law.

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Letters

Pro-Choice

To the Editor:

Law Students for Choice is a new student organization that is currently working on its constitution and by-laws. It originated from a small, informal group of law students (coordinated by Karen Butz and Ingrid Olson) that have participated in and advertised pro-choice activities in Washington D.C. and Richmond over the last year and a half.

The group intends to expand its current contacts with the many national pro-choice organizations to include: National Abortion Rights Action League, Virginia Organization to Keep Abortion Legal, The Religious Coalition for Abortion Rights, and Planned Parenthood. The purpose of the group is to keep law students informed of the many opportunities that students have to participate in pro-choice activities; to inform students of current law suits, legislative acts, legal issues and arguments used to challenge *Roe v. Wade*; to support the development of safe and effective contraceptive devices, and the availability of accurate information on human sexual reproduction.

The first official meeting of Law Students for Choice will take place in the fall. At that meeting, officers will be elected and plans for the year will be discussed. Please join us in the fall, we are interested in your ideas. Any current questions or concerns may be directed to Kate Atkins (1L).

Kate Atkins (1L)
Ingrid Olson (2L)

Pro-Life

To the Editor:

Everyone is aware of the actions of Pro-Life people who have boycotted at abortion clinics across the country. Are you aware, however, of some of the tactics of the Pro-Choice people. The National Organization of Women has threatened a national boycott of Idaho products if the Governor of that state signs a restrictive abortion bill. There has been a call in our own *Advocate* for the boycott of Dominos Pizza because the founder of Dominos is Pro-Life. So, Pro-Choicers are called on to stop eating Potatoes and Pizza!

The actions of the Pro-Life side arises out of the fact that people believe that it is wrong to unjustifiably destroy a human life, period. I do not intend to get into the "is the fetus a person" debate. I do think everyone can agree, however, that a fetus is a living, growing creature, and that the creature is human. To argue that upon conception a human life form is not living and growing is to greatly deceive yourself and others, and to avoid *the* fundamental aspect of the abortion debate. Pro-Life people believe that humans do not have the authority to unjustifiably destroy human life. To do so is to permit genocide and to make us less than human.

Laws are enacted to protect and better our fragile life on this earth. We restrict pollution so we can breathe and eat healthy food. We enact traffic laws so our lives will be protected on the highways. We have criminal laws that restrict our right to harm or take another's life without justification. Restricting abortion also protects fragile human life.

Pro-Choice people argue that we cannot restrict a woman's right to control what she does with her body. Why then do they say nothing about laws restricting suicide, self-mutilation, illegal drug use, etc.. To argue and believe that we have an absolute Constitutional right to do what we wish with our bodies is to kid yourself. People who take this position also ignore the fact that we are dealing with two life forms.

I realize there are many more complicated and important issues involved in the abortion debate. The purpose of this letter was to provide some food for thought, so to speak. Anyone who is ready to boycott Potatoes and Pizza ought to take another look at and introspect on some of the basic fundamental issues of abortion. In fact anyone who is ready to voice an opinion or elect our leaders based on a Pro-Life or Pro-Choice position should sincerely reexamine these fundamental issues.

Michael Tillotson (3L)

Lee Unloads

To the Editor:

Because I am sure no one wants to see my name in print more than once, if that much, I am essentially combining three "letters to the editor" in this one letter.

First, a response to Mr. Fendig's criticism of those going barefoot is in order. In light of Mr. Fendig's recently published joint editorial on the humorlessness of the student who was offended by "P.D. O'Phile," I am surprised to find him so lacking in humor, or perhaps more accurately, in tolerance, for those who chose to expose the contours of their tarsal and metatarsal regions. (That means those that go barefoot, John.) I suppose that barefootedness does not portray the proper, conservative image a law school is supposed to have, but it does reflect an individuality and freedom of thought and expression of which I am personally fond.

Yes, I have gone barefoot in the library. I plan to continue the practice, too, whenever the mood strikes me. And I applaud those who take the nakedness of their feet beyond the confines of the library and into the halls, classes, and even outdoors. I urge my fellow students to strike a blow for individuality and cast off the yoke of conformity by going barefoot whenever it suits them.

One more thing: your reference to trailer parks seems to suggest that occupants of trailer parks should hang their heads in shame. Indeed, this reference sounds elitist and I am sure it would offend some people that live in trailer parks. I hope you did not intend any elitist slant against living in a trailer park.

Secondly, I would like to comment on a practice I see too often among lawyer-types. When reading letters to the editor of the *ABA Journal*, it struck me that most of the writers were cutting butter with a chainsaw. That is, they were viciously attacking the individual propounding an idea rather than merely critiquing that person's opinions. This practice also includes over-reaction to another's words, thoughts, or actions by using excessive energy to quell what is usually only a perceived and not an actual threat. I admit that I have occasionally been guilty of cutting butter with a chainsaw, but usually one someone points out that I am doing it, I cease this waste of energy.

I have seen many examples of this practice around the law school. Much of it can be found in letters to the editor of the *Advocate* and the *ABA Journal*. Shouldn't it be enough to point out what one perceives as errors in another's logic without having also to state or imply that the holder of the opinion is a mass of genetically useless material? I think authors of such opinions should have more faith in their own abilities to persuade others and more respect for differences of opinion. Other examples abound in social situations: X shows an interest in Y and Y ceases talking to X. Z has intimate relations with W and then to avoid any romantic entanglement, Z blows off W thereafter. I suppose in some situations a complete severance of any relation may be the only way to protect the integrity of one of the members, but I doubt it should be necessary amongst a group of person as highly sophisticated as William and Mary law students. Again, it seems to me that not enough faith is being placed in the abilities of our colleagues, especially their ability to adapt and grow.

Finally, I write to say that William and Mary Law is not as friendly of a place as it

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Funds Left Unassigned

by John Fendig

The new sign recently installed at the Law School has made a decision necessary on how to reallocate the Class Gift funds of previous classes which were allocated towards sign construction. Approximately four to five thousand dollars, given by members of the classes of '83 through '90, exists to be expended or redistributed.

According to Deborah Vick, Assistant Dean for Development, the donations are kept in the annual gift account. combined with other class gift funds. A separate ledger sheet is maintained for each class or directed gift and interest is credited to each such gift separately. None of the funds pledged toward sign construction have been spent.

Funds in these accounts, as are all such directed gifts to the College, are required to be spent in accordance with the purpose assigned to the gift, if at all possible. The final decision on the specific allocation of funds is made by Dean Sullivan, according to Dean Vick.

In light of the new, College-installed, sign at the Law School, Dean Vick sees a number of possible options for spending the sign money donated through the Class Gift program. These options include: 1) landscaping around the existing sign; 2) purchase of a sign to place on the Law School *building*; 3) returning the funds collected; 4) removing the current sign and installing a different one; 5) otherwise redirecting the funds.

Dean Vick said that some of these options were clearly more preferable than others. Options such as numbers 3 and 4 above would involve locating and contacting all prior donors in order to return the gifts or conduct a proxy vote as to their use. Such an operation would expend precious resources of time and money in the Development Office, said Dean Vick. Option 5 should involve the raising of approximately three thousand more dollars to meet the full cost of a replacement sign.

Dean Vick hopes that the money will be used to provide landscaping to beautify the sign presently installed at the Law School. Plans have been made to plant some flowers at the signs's base as a temporary measure for graduation, but, according to Dean Vick, the College has done all the landscaping that it was to provide. Currently the sign stands above bare ground.

Dean Vick feels it is in the School's best interest to pursue the landscaping plan, a use that reflects the sentiment of the gift. Over the spring or summer she hopes to talk with landscaping firms for proposals and their installment costs and discuss with the College a contract for future maintenance. The total cost of this allocation of the funds could amount to several thousand dollars, according to Dean Vick.

By sometime next fall, Dean Vick hopes to come up with a plan along these lines of how the money is going to be spent, and receive comments upon it. Dean Vick said, "What is most important to me is that when people make a[n earmarked] gift, they feel confident that is where it is going to go."

The current sign was provided to the Law School and installed by the College under an on-going program to establish uniform signs for all College properties. It was installed in front of the Law School at the end of last month. Apparently the existence of the program was unknown to students and administrators at the time of the fund raising.

Dean Vick said that money initially began to be collected for a sign in front of the Law School by the Classes of '83 and '84, after an earlier sign had been stolen and replaced twice. Pledges were added by the Classes of '88 and '89 and funds collected through their class gift drives.

The Class of '89 did exceptionally well, according to Dean Vick, and in a drive organized by Bo Sweeney and Mike McAuliffe raised nearly three thousand dollars. A number of members of the Class of '90 also contributed to this drive. The Class of '90 contacted a local architect and monument company and had plans drawn up for a sign constructed of granite costing approximately eight thousand dollars. These plans were displayed during the fund raising.

The current total in the development fund accounts pledged toward sign construction is approximately four to five thousand dollars. According to Dean Vick, the breakdown, in approximate figures, is: $350 to $400 pledged by the Class of '83, $1000 to $1200 by the Class of '84, a small figure by the Class of '88, and $2000 to $3000 by the Class of '89. The College has a record of all donors' names and amounts.

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1Ls Learn Registration Secrets

by Christopher Lande

Mary Swartz, and Professors Barnard, Grover and Robinson conducted a pre-registration information session Monday afternoon for rising second-year students. Mary Swartz outlined the basic mechanics of the registration process and the requirements for graduation. To graduate from Marshall-Wythe, a student must successfully complete 90 hours of credit, including four semesters of Legal Skills, one enrichment course, and one course satisfying the major writing requirement. The only course absolutely required after first year is Criminal Law. Students may take up to six hours of credit in non-law courses.

Mary Swartz will have course catalogues from William & Mary undergraduate and other graduate schools available in her office by the end of this week. Because the rest of the College doesn't coordinate registration with the law school, students interested in these courses should sign up for a full load of law school courses and finalize their schedule during the Drop/Add period in the fall, after receiving approval to enroll in the course.

Professor Barnard followed by describing five "Macro-Strategies" students may use to help decide which courses to choose:

PERSONALITY - Take courses from professors you enjoy.

FOCUS ON ENRICHMENT - Consider law school as an extended liberal arts education and know that the best attorneys are the most well-rounded individuals.

FOCUS ON NUTS & BOLTS (BAR EXAM) - Take all the courses "everybody takes in law school" - Tax, T & E, Sales, Federal Courts etc.

MASOCHIST - Take courses which will strike fear in your heart and force you to study and challenge yourself.

PATH OF LEAST RESISTANCE - Law school is enough of a hassle without trying to make it harder, just sign up for whatever it takes to graduate.

Professor Grover added that students should try to have fun and take courses which are meaningful to them and will make their individual lives more meaningful. As for "Bar Exam" courses, students ought not to feel compelled to take them, but having taken a course in a particular area may make your life more pleasant if you are the type of person who is likely to stress out during bar review. Professor Robinson agreed with her colleagues and emphasized the importance of Federal Income Tax. She also encouraged business-oriented students to consider taking courses in the business school or graduate tax program. (None of the professors addressed the approaches of never taking classes that meet before 10:00 a.m. or on Fridays.)

Second-years Caryl Lazzaro, and Manny Arin and third-year John Fendig concluded the session by offering their views as students who have actually been through the process. All said they would never have been denied admission into a course they wanted had they waited out the full week of Drop/Add. Arin stressed "Job hunting requires an enormous amount of time for many second-years. Take fewer hours if possible." Fendig warned "Watch out for 'double fours'. Taking two four-hour courses the same semester can be overwhelming and require a lot of time in school." He also advised students to think about what courses they want to take during their entire law school experience, not just one semester.

Caryl Lazzaro pointed out "Students must be careful about paying fall semester tuition on time. The treasurer is completely serious about disenrolling anyone who has not paid tuition by the August deadline." This means you will be taken out of all the courses for which you are registered and will have the lowest priority for re-registering in the fall. She advised students at registration to be sure to submit the empty legal-sized envelope in the registration packet with a correct summer address. The college will use this envelope to send to students' schedule and tuition bill.

If you do not receive your student loans before tuition is due, the College will accept a letter from an approved financial institution in charge of the loan. (Visa and MasterCard are also accepted so you might want to try to get your credit line jacked up this summer if you have a well-paying job.)

On the Fence

by Karin Horwatt

Racist speech has been on our minds, recently, thanks to The Seventh Annual Bill of Rights Symposium entitled "Free Speech & Religious, Racial, and Sexual Harassment." The Symposium was styled as a town meeting, where panelists and members of the audience got to debate the passage in the hypothetical State of Freedonia of two bills designed to limit religious, racial, and sexual harassment. The two bills have broad and diverse impacts: The first bill is censorious and the second bill is totalitarian.

The first bill, "The Hate Speech and Sexual Subjugation Statute," provides first that

> *No person shall publish or utter any communication attacking, impugning, or insulting the dignity of another person, or group of persons, on the basis of race, ethnicity, gender, sexual preference, or religion, if such communication would create a clear and present danger of inflicting severe emotional distress to the reasonable person, and is patently offensive to the ordinary reasonable person in the community.*

The second half of that bill provides that "In any prosecution under this Act, the jury shall be instructed that presence of depictions of rape, assault, or other sexual acts of sexual domination or violence, in a manner condoning or advocating such acts, shall be taken into account in determining whether the material" violates the first half of the bill. It basically expands the scope of emotional distress law and criminalizes it.

The second bill is "The University Hate Speech Regulation." It prohibits any "faculty member, administrator, University employee, or student" from "utter[ing] or publish[ing] any speech *in a restricted zone* attacking, impugning, or insulting the dignity of another person, or group of persons, on the basis of race, ethnicity, gender, sexual preference, or religion. [emphasis added]" Penalties for violation subject the offender to a range of "disciplinary sanctions, including the dismissal or expulsion from the University." The "restricted zones" are "classrooms during class times, libraries, laboratories, or recreation and research centers," in other words, those locations that should be most free from Government interference.

These statutes -- especially the second one -- erode the First Amendment in the very Orwellian fashion the proponents of it like to abhor. These New Orwellians say that they concern themselves instead with the values of "human dignity, tolerance, and equality."

But the Constitution does not contain anywhere in it the right not to be offended. On the contrary, one of the most venerable institutions throughout American history has been The Marketplace of Ideas. In the chaffering Marketplace, the offerings are many. There, not only do reasonable people disagree, but they are not even required to be reasonable. Some of the offerings are good, and some are tainted. Debate in the Marketplace is passionate. The First Amendment conceivably implies a faith that Truth will win out, but since the word "truth" occurs nowhere in the Amendment, we cannot even fairly regard the pursuit of Truth as its goal.

It wasn't and it should not be. Its goal was simply to allow for an atmosphere conducive to freedom of expression. The Christian who says with firm, quiet conviction, "No one can enter the Kingdom of Heaven, but who has accepted Jesus Christ as his Savior" offends and insults the Jew and the atheist, but the Amendment protects all three of them. There is not a clause added to the First Amendment which says, "This amendment only applies to agreeable speech."

In the meantime, we all have encountered speech that has attacked our dignity on the basis of that grocery list in those statutes: on the playground in grade school. Back then the solution was to develop wit quicker than one's attacker. Comfort also was found in, "Sticks and stones...." Is the remedy now to be a new kind of lawsuit? With the increase in violent crime, do we want to clog the prosecutors' offices with this? If the attack is truly outrageous, the remedy already lies in a suit for intentional infliction of emotional distress.

Enough of the theoretical. Now consider the practical. For illustration, please consider the following sentence: White people have rights too.

Some of you are already offended. But what if that sentence were uttered during a tenure evaluation committee meeting of a State university? What if it were uttered in protest of affirmative action hiring practices? The First Amendment squarely protects the expression of protest against Government action -- even (arguably) reasonable Government action, but the sentence could easily be construed as offensive and racist. In fact, a University just lost a suit to the tune of one million dollars and change for precisely that utterance under precisely that setting, in direct violation of the speaker's First Amendment rights.

Problem two. Consider that sentence, slightly revised. Black people have rights too. Most of us nod our heads and say, "Well, yeah, of course." We don't tense up and wait for Archie Bunker to walk out of the room. The speaker in the first scenario is likely to be prosecuted more often than the one in the second, until prevailing winds change. In this case, the reasonable man is a tyrant.

Problem three. A white woman says to a black boy, "I don't want you to marry my daughter because you're not Jewish." A Catholic student argues in class that intermarriage between Catholics and non-Catholics is undesirable. A white woman says to a black boy, "I don't want you to marry my daughter because you're black." Who gets prosecuted? Are the sentiments a reflection of a wish to pass on existing traditions or of flagrant religious or racial bigotry?

There is a fourth problem. We and The New Orwellians are trained to argue. We learn not to make *ad hominem* remarks and we learn to separate the argument from the speaker. In the course of our training, we forget that debating is a skill. In the rest of the world, in the office as well as in the factory or on the unemployment line, people are not trained to debate. Their passionate political argument slips into personal attack. It becomes unreasonable. The New Orwellian statutory agenda would still *their* debates more than ours, because they would know less than we how to comply.

The bottom line is that these statutes are designed to eliminate racist thoughts by Government fiat. The result if implemented would be a chill not only on the thuggish racist but on the novelist, and of anyone who honestly disagrees with the majority.

If the goal is to eliminate racist ideas, then go all the way with it. These statutes do not go far enough. To really accomplish the elimination of racist and sexist thoughts from the American brain requires the repeal of the First Amendment. For the rest of us, we should remember that The Marketplace was intended to be a place where no one fears to raise his voice.

Letters continued

should be. Many students seem to be quite cliquish and will not talk or even smile at other students unless by the accident of the legal skills program or their apartment selection they happen to see them for long periods every day. I often feel that students here need an excuse to do so simple a thing as smile at a law student they do not know. Perhaps the academic demands make students unaware of those about them. Perhaps they are not aware that they come off as unfriendly. Perhaps they do not want to be friendly. Each student has an impact on the "atmosphere" here at William and Mary. For those of you who feel as I do that the atmosphere should be friendly, I hope you will make a little more effort to smile occasionally.

Stephen Lee (3L)

Barefootin'

To the Editor:

I would like to respond to John Fendig's attack on the barefoot that appeared in the last issue of the *Advocate*. He characterized the problem of barefootedness in the law school as one of great seriousness approaching that of the bubonic plague. What I ask is how does my not wearing shoes harm you. I concede the law school is not the beach, my bedroom or any of the other places in your endless list, but neither is it a courtroom or a law office. Law school can be a high pressured world, so what harm is there in relaxing and reveling in warmth and happiness of spring?

We are taught in college and law school that to be educated is to have an open mind that does not to reject other people or their ideas simply because they are different. The derisive remarks about people from Bangladesh and Appalachia being unable to own shoes only perpetuates stereotypes and encourages prejudices. This defeats a basic principle of learning--the creation of a greater understanding and acceptance of others. Marshall-Wythe is a community of many diverse people and we will all live together better when we are willing to accept the harmless attitudes and ways of life of our fellow students.

Harry Lewis (2L)
Tim Hughes(2L)

More Letters

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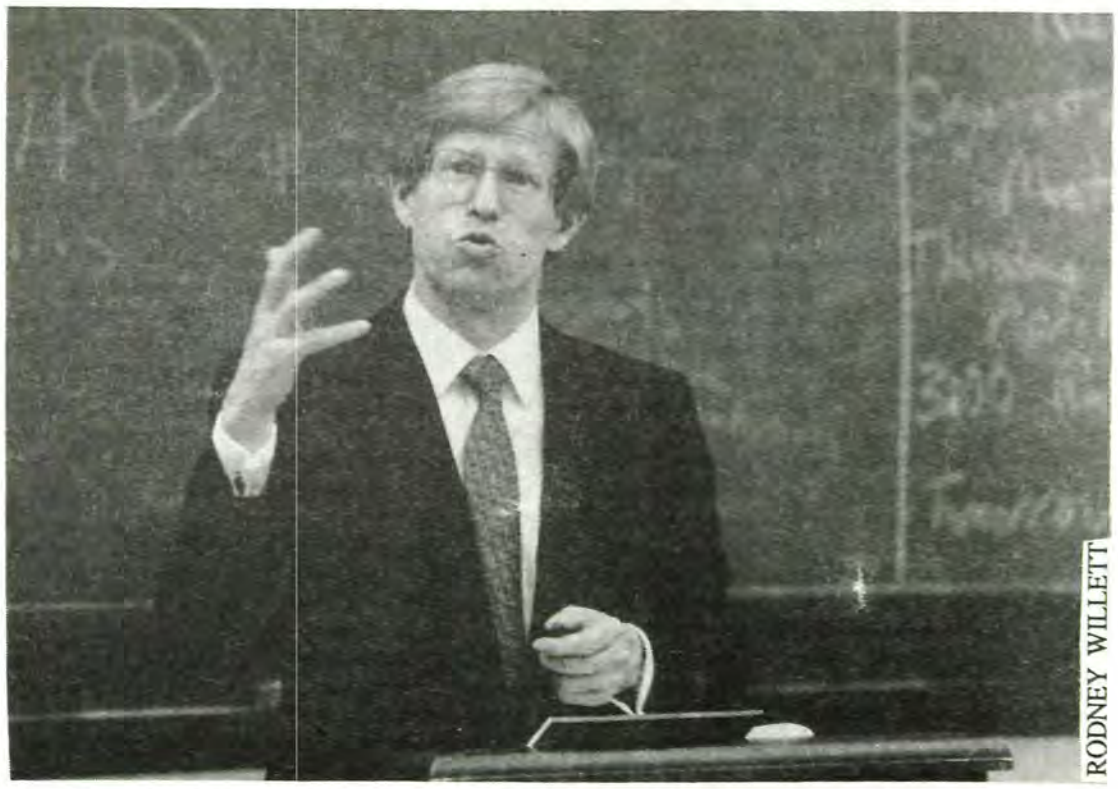

RODNEY WILLETT

Guest speaker Theodore Olson spoke at Marshall-Wythe on separation of powers last Monday. Olson achieved local notoriety for being the subject of third-years' law review write-on competition.

Freedonia Rejects Speech Restrictions

by Joan Quigley

Maybe it's an election year in Freedonia. Or maybe the staff of Freedonia State University has a latent libertarian streak. Perhaps the Appleknockers are having a bad season. Whatever the explanation, the citizens of Freedonia, convened last Thursday night under the auspices of the Institute of Bill of Rights Law, soundly rejected proposed legislation to curb hate speech and speech involving sexual subjugation.

Before a standing room only crowd in Room 119, participants in the Seventh Annual Bill of Right Symposium on Free Speech and Religious, Racial, and Sexual Harassment sat alternatively as the Legislature of the State of Freedonia and the Faculty Senate of Freedonia State University. Four distinguished panelists presented their views on the merits of the proposed attempts to reconcile First Amendment law with basic communitarian values of religious, racial, sexual, and ethnic tolerance. Members of the law school community and visitors from the surrounding area, filling in as concerned Freedonians, spoke out as well.

The proposed hate speech statute would have gone beyond existing "fighting words" law on the theory that group insults and racial or ethnic slurs have no place in the "marketplace of ideas." The bill provided that "[n]o person shall publish or utter any communication attacking, impugning, or insulting the dignity of another person, or group of persons, on the basis of race, ethnicity, gender, sexual orientation or religion, if such communication would create a clear and present danger of inflicting severe emotional distress on a reasonable person, and is patently offensive to the ordinary reasonable person in the community."

Similarly, the sexual subjugation section of the proposed legislation would allow a jury instruction that "presence of depictions of rape, sexual assault, or other acts of sexual domination or violence, in a manner condoning or advocating such acts, shall be taken into account in determining whether the material is patently offensive to the standards of the community." As the terms of the statute suggest, this section simply provides that a jury take depictions of sexual subjugation into account when determining whether or not the speech at issue satisfies the test outlined by the Supreme Court in *Miller v. California.*

Professor Toni Massaro of the University of Arizona spoke out in favor of the hate speech regulation. She noted that the First Amendment in general strikes a compromise between protecting free expression, including race hate, and a broader societal desire for culturization. In its narrowest version, she argued, the proposed legislation would single out only "fighting words plus racism," speech which, when delivered face to face, posed a clear and present danger of immediate psychic or emotional distress.

Professor Anthony D'Amato of Northwestern, however, expressed concern that even a narrowly-tailored hate speech regulation would undermine basic rights to freedom of expression. Rather than make depiction of sexual subjugation a factor which may be considered in determining whether material meets the requirements of the obscenity doctrine, he argued, pornography is "core" political speech which should receive the highest level of First Amendment protection. Scenes of sexual subjugation and submission, he suggested, are the most political speech imaginable.

Before voting on the proposed regulation, members of the audience also heard from several community figures, including Michelle Gordon of the Williamsburg Battered Women's Shelter. Gordon argued that current obscenity laws are not far-reaching enough. She observed that enactment of the sexual subjugation statute would send an important message that sexual violence is impermissible.

At the close of discussion and debate, however, the audience voted down both the hate speech statute and the sexual subjugation bill. A proposed amendment to the hate speech bill, which would have inserted language restricting the reach of the provision to face-to-face insults which create a clear and present danger of immediate psychic harm, was similarly defeated. Professors Robert C. Post of Berkeley, Randall L. Kennedy of Harvard, and Massaro of Arizona later observed that the proposed regulations not only would have been endorsed by a comparable assembly of law students on their respective campuses, but they might not have been radical enough. Professor D'Amato, however, suggested that Northwestern students probably would have reached the same result as the group assembled in Room 119, even though Northwestern has recently been plagued by outbreaks of anti-Semitism.

In the second portion of the symposium, the audience considered a proposed University hate speech regulation. Noting that a college is a "unique community" which imposes certain requirements of "rationality and civility" upon its members, the regulation created hate-speech free "restricted zones," including "classrooms during class times, libraries, laboratories, or recreation and research centers." In non-restricted open forums, such as traditional grassy open areas, streets, sidewalks, classrooms when classes are not in session, publications, and forums for creative and artistic expression, the traditional clear and present danger test was the benchmark of protected expression.

Professor Robert C. Post of Berkeley noted that the purpose of hate speech regulation on college campuses is to create an atmosphere in which students may join reason and civility in pursuit of truth. He suggested that rather than nurture the autonomy and toughness with which to withstand racial epithets, universities should create civil human beings capable of mutual respect and civility. Although the proposed hate speech regulation would be inappropriate if applied to the general public, he observed, it was not an illegitimate exercise of state power on the college campus due to the special role of the university in inculcating values.

Professor Jane Barnard, speaking as a fictional professor of chemistry at Freedonia State University, advocated the creation of restricted zones in the classroom to limit hate speech attacks on fellow students and professors. She expressed concern, however, that broader restrictions on speech in libraries and recreation centers would lead to the censorship of discussion.

Sabrina Johnson (2L), portraying a Freedonia grad student, observed that the proposed university hate speech regulation might have unintended adverse consequences. By making adherence to the hate speech regulation a condition of entry into the university community, the state cut off the educational opportunities of the intolerant. Rather than put racist and sexist individuals out of school, she argued, the university should strive to give them guidance.

In the end, the Freedonia State University Faculty Senate proved remarkably in sync with the prevailing sentiment in the Freedonia legislature. The proposed University Hate Speech Regulation, like the proposed hate speech and sexual subjugation statutes, failed to receive a majority of the vote. Professors Massaro, Kennedy, Post, and D'Amato will have the opportunity to make their arguments in greater depth, however, in the forthcoming symposium issue of the *William and Mary Law Review.*

STEPHANIE BURKS

Distinguished panelists discuss free speech at Bill of Rights Student Division Symposium last Thursday.

Reach for a Rising Star

by Mary Grace Hune

Information overload. Information anxiety. Information glut.

Whatever you call it, this phenomenon is a very real part of life in the Information Age. The amount of information available is more than doubling every five years. And for most of us, there are simply too many new facts, figures and developments to keep up with.

Whether it's the most recent information on AIDS in the workplace, the newest products in law office automation, or the current opinion on value billing for legal services--what was true six months ago, six weeks ago or even six days ago may not be true today.

As lawyers, the financial security, health and welfare of our clients, and in turn the success of our practice, depend on our making knowledgeable choices, the right decisions. And that means having the right information.

No one person can be expected to know all the answers to the myriad of questions confronting us as lawyers. But, we should know where to go for help. That place is the library. The person to ask is the librarian.

During the week of April 22-28, 1990, libraries across the country will celebrate National Library Week with the theme "Reach for a Star. Ask a Librarian." The message is that librarians play a starring role in the Information Age. And that they are there to help the rest of us.

The law firm librarian may be a link with high technology, creating and using computerized databases to store and retrieve the latest available information, including judicial decisions, law review articles, and prior research projects completed by other lawyers within the firm. Academic librarians may use a variety of media, including computers, videodisc, and videotape, to teach students the information-processing skills they need to succeed in a technologically advanced society.

Librarians also put the "high touch" in libraries with those simple words, "May I help you?" They locate current corporate information on takeover target companies. They bring together law firm people with law students so that each group can discuss their expectations of the other. They conduct special classes on compiling legislative histories, and organize computerized legal research training sessions.

If you haven't been by the library lately, National Library Week is a good time to visit and see what's new. Bring along a question or two and go ahead, "Reach for a Star. Ask a Librarian."

More Letters

McDowell on Moot Court

To the Editor:

As Adrian Nelson takes the helm of the Moot Court Board, I depart having failed to achieve my number one goal: academic credit for Moot Court through funding independent of the BSA. The recent SBA presidential elections revealed that there are a lot of misconceptions among Marshall-Wythe students as to what the Moot Court situation is. It is important that each of us is fully informed of the facts if we are ever to attain academic credit.

One year ago, I had just been appointed Chief Justice. Former Chief Justice Bruce McDougal and Professors Barnard, Hardy and Collins had weaved a proposal for the faculty to consider. The proposal asked for the awarding of two hours of academic credit to Moot Court team members who write a brief and compete in a competition. The proposal called for strict faculty supervision of the brief writing and practice oral argument stages. In reality, these requirements changed nothing since Moot Court members crave faculty involvement. I ventured into a faculty meeting to field questions and to try my best to convince the skeptics that Moot Court had academic integrity, as much as Legal Skills, Appellate Advocacy, Trial Advocacy, clinicals and many other classes. In the end, the faculty voted 16-6 to award academic credit to Moot Court *if* we could secure funding independent of the BSA. (The BSA will give us funding only if we do not receive academic credit). In its resolution, the faculty strongly urged the Dean to use his best efforts to find such funding. That vote changed the priority of our goals. Funding became paramount.

The obvious sources for funding were: the annual law school budget, student activities fees, and alumni contributions. The most feasible of these seemed to be the annual budget. The Dean was more receptive than ever to getting the perpetual moot court controversy resolved, partly because of the National Team's victory in 1989, and partly because of the faculty's support. He worked sincerely and honestly with me to propose to the Provost a $12,000 line item in the law school budget. Reggie Clark, President Verkuil's Assistant, also helped Moot Court by lobbying the Provost from the President's office. We weren't asking the College for any more money. We were only asking that the same amount of money come from a source other than the BSA. That argument seemed to appeal to the Provost's logic. In short, all of the lights were green on our way to permanent funding. But green lights mean little when dealing with a state bureaucracy.

Earlier this semester, when everything was going our way, news of Governor Baliles' state budget deficit hit. The College budget was in a state of emergency. As a result, the Provost prohibited any accounting sleight of hand. At best, budgets would be frozen. At worst, they would be cut. The Dean couldn't help us and the President wouldn't. We had come closer than ever to resolving "the problem." But the dream would be delayed.

Throughout the year, we examined other less obvious options. Darren Burns was part of a group analyzing the reallocation of student activities fees. Each of us pays roughly $1,600 a year in fees which go to support the bus service, student health, recreational sports and other activities. A certain portion of that comes to the law school in various forms. Darren's proposal to the Board of Visitors suggested that Moot Court receive an additional $2 per student, college-wide. Multiply that by 6,000 students and we get a $12,000 a year Moot Court budget. The proposal went before the Board at the same time the Baliles budget crisis hit. Being received in a crisis atmosphere, it was temporarily "shelved" until the budget situation becomes more clear. It may be years before the Commonwealth straightens out its budget problems. There will be no "90 day solution" to Moot Court.

Dean Vick has worked closely with the Moot Court Board to find new ways to solicit alumni for contributions. In the past year, the Alumni Office has allowed alumni to restrict their contributions to Moot Court. Also, we have sponsored phonathons, Homecoming barbecues and direct mail campaigns to potential large donors. While we have raised roughly $1,300 this year, establishing an endowment is a painstaking process which could take years absent one exceptionally large contribution. In addition, Moot Court understandably falls below other law school priorities, such as the library and academic chairs, when competing for alumni money. These are fundamental needs which dramatically affect our national ranking.

Because students can only hold leadership positions for a short time given the temporary nature of being in school, it is difficult to maintain the pursuit of long-term goals with any continuity. But the credit/funding issue for Moot Court will not die when this Board graduates. The new Board members enter their third year with vigor and an acute awareness of the recent history of the Moot Court struggle. They realize that we came closer this year than ever before in our attempts to secure funding and credit. They too are frustrated with the statewide budget cuts which derailed our efforts. Hopefully, enough law students are so committed to a resolution of this problem that there will be continuity of purpose and action. But when pursuing this goal, be fully aware of what has been tried and what offers promise.

On a separate note, I thank the 1990 Moot Court Board for running a first class program this year. Everyone worked long hours to ensure that every detail was perfect. If you see any of the following people, please thank them for keeping Marshall-Wythe's Moot Court program one of the best in the country: Sara Beiro, Tonia Jones, Martha Leary, Melissa Heydenreich, Mary Jo Allen, Tom Sotelo, Brian Telfair Andrew Livingston, Sara Austin and Cheshire I'Anson. Thank you! I enjoyed working with you!

Rob McDowell (3L)
Chief Justice,
Moot Court Board (Ret.)

"Star Chamber"

Dear Editor:

I am presently reading a book, *English Constitutional and Legal History*. In a section of the book entitled, "Conciliar Jurisprudence" (known sinisterly to history as the "Star Chamber" trials) are the reasons why our founding fathers did not provide for a special prosecutor and why we once had the Fifth Amendment to prohibit self-incrimination:

1. The council was guided by the needs of state policy rather than by any fixed legal principles.
2. Conciliar criminal justice could be extremely arbitrary.
3. The Yorkist council... dealt vigorously with such cases but it was at the expense of due process and individual rights as established by the common law.
4. The Council discovered the facts by inquisitorial methods.
5. Champions of the common law objected to the ex officio oath imposed by the Council upon the defendant, who could in this way, be made to testify against himself.
6. This, in terms of broad justice, was the weakness of adjudication by Council; all cases tended to be judged in terms of state policy of the moment.
7. Much has been made of the wisdom... in employing conciliar criminal jurisprudence only against great men--a policy frequently contrasted with the folly of the early Stuarts in extending this phase of conciliar jurisdiction to lesser men. But, such a development was inevitable, because ultimately justice is the same for all men.

Excerpts from, *English Constitutional and Legal History* by Colin Rhys Lovell, pp. 215-18.

Items one through seven are descriptive of what happened and has been happening in America since Watergate by the introduction of the Special Prosecutor and the ensuing disregard for due process and the Fifth Amendment prohibition against self-incrimination. Such is also the situation in Virginia where the case law presently in use by the Virginia Employment Commission has followed the precedent set at Watergate, thereby forcing the individual to incriminate himself.

Under the U.S. Constitution, we are supposed to be judged equally, "great" and "lesser" men alike, by laws in accordance with that Constitution. Sadly, since Watergate, that no longer is so. In England, ultimately, "Star Chamber" trials were abolished. Likewise, in America, they should be also.

Thomas O. Williams
Williamsburg, VA

Too Close to Home

by Mike Flannery

Every single day, all across America, all manner of brutal crimes are committed. The first few stories in any local news broadcast concern the latest fiendish acts. The newspapers chronicle the same litany of horrors. If it bleeds, it leads.

At some point, as you settle comfortably in your easy chair for a little rest and relaxation, the whole sordid business becomes blurry and indistinct. This phenomenon is akin to the noise that a needle makes as it slides along the groove of a record: you know the noise is there, and it might spoil the beautiful music, yet most of the time you simply tune it out. But not all of the time. Sometimes, you just can't ignore the noise: the needle is old, the record is scratched, and the music is ruined. So too with some crimes.

Anne Elizabeth Borghesani grew up in Lexington, Massachusetts and went to Lexington High School. She attended college at Tufts University in Medford, Massachusetts and graduated in 1989. After college, she moved to Arlington, Virginia and began to work in Washington, D.C. as a legal assistant for the law firm of Hogan and Hartson.

On Tuesday, March 26, Anne turned 23. On the evening of Saturday, March 31, Anne left her Arlington apartment to attend her own birthday party in Crystal City. She didn't have a car, so she walked to the Rosslyn Metro station by way of the bike path along Lee Highway. As she walked along the path, an unknown assailant overpowered her, beat her severely and stabbed her to death. The body was found the next day in an outdoor stairwell of a nearby building. Anne's friends discovered the body.

Thoughts of this crime seem to haunt me. I moved to Arlington in March of 1986 with my sister, Anne Elizabeth. She and I lived just off of Lee Highway near Key Bridge. We both worked as paralegals in downtown Washington, D.C. Anne and I ran along those bike paths a thousand times. Sometimes Anne ran alone. I look back with fear and relief at what might have been, and I stare in angry frustration at what is. Anne Elizabeth Borghesani deserved a better fate.

What fuels this senseless violence? I suppose there are a million socio-economic and psychological theories, some of which might sound quite logical and rational when taught to a room full of students or written in a scholarly journal. Even so, these theories will not satisfy me. The acutely evil nature of this crime has struck too close to home. But for a stitch in time, the victim might have been someone I loved.

I cannot fathom a profound lesson which might be learned from Anne Borghesani's death, except that life is extremely cheap in a world inhabited by rapists, muggers and murderers. That lesson is too tragically old. Perhaps caught up in the euphoria of seeing all of her friends, Anne overlooked the passing time and fading light. Perhaps she had never been a victim of crime herself, the awful reality fading into a background of misplaced trust. We will never know.

I close with the words of the Rev. John Crowley, the priest who helped to bury Anne Borghesani on April 4:

"Each of us has our own memory, where we were enlightened and enriched by Anne's presence. We cannot understand what happened to her. Somehow, it is a part of the conflict between good and evil. Our sister Anne has gone to the Lord. Let us pray, not only for Anne, but for ourselves."

Amen.

did I do THAT?

. . . ruminating on first year

by Anne Wesley

As the class of 1990 moves towards our final days as law students, we thought it might be nice to relieve exam stress by remembering life as a first year (Anything has to be better than being a first year with 2 more years of law school ahead of you). Here are various memories about first year presented in a somewhat haphazard fashion. This article could of course never capture the entire essence of our first year for three reasons: 1) Obviously a space limitation. 2) People were generally reluctant to incriminate themselves - especially when the Dean still has to sign our good character vouchers. 3) A lot of what first year was is inarticulable. It was more than a funny answer in class or Tad blowing his nose for the 6000th time. First year was a process which even the most eloquent among us would be hard-pressed to capture with accuracy.

Maudlin commentary aside, here is a sampling of the class of 1990 as first years with all of our naivete and humor.

Orientation

Our orientation was not the week long legal skills extravaganza that incoming first years now enjoy (?). True our composite picture looked like a kindergarten class project just as succeeding class composites have, and we were suckered into buying parking stickers (They were cheaper then). But our orientation was the last of its genre.

We met at a classroom on main campus to hear such stirring talks as : "The Honor Code - Your Friend and Mine" by Jude Klena, "How to Have Minimal Amounts of Fun as a First Year" by Professor Glenn George, and a rah rah speech about our talent and diversity given by Faye Shealy. Of course how could you forget the most important day of the year for Fred Lederer ? On orientation day, Professor Lederer got to recruit Trial Advocacy witnesses by demonstrating his prowess with a toy machine gun. His skillful handling of demonstrative evidence was supposed to make us foam at the mouth to sign up. Of course we did. We were first years. What did we know ? There could have been extra credit involved.

Later, we went to our first session of what was to be a long and unhappy sentence of penal servitude in Legal Writing with Michael Hillinger as head warden. We arrived to sit in Room 119 clutching our briefs of *The Blue Ship Tea Room*. Some people had spent days writing it. Others had briefed it in between t.v. commercials. Already the class was beginning to separate into bona fide tools, tool wanna-bees, and the serfs in the feudal system of grades.

We did learn an important lesson in that legal writing session - the gut-wrenching fear of being called on when you were unprepared. Hillenger selected 4 individuals to argue whether T.A. Graham Shirley had violated a school rule by spitting on the wall. Jeff Brandon, Laura Ogden, Patricia Hammond and Dan Brady were the students who were called to advocacy. Andrew Livingston had been called on to participate, but he and Rob McDowell fortunately were buying books.

The fun didn't stop there. We had a cookout at Lake Matoaka with SBA members flipping the burgers for us. Several professors showed up for the event. Charles Fincher thought Gene Nichol was a construction worker who was there to clean up trash. Katherine Cross thought Nichol was a god. Generally that night was a time for us to size up our fellow classmates and for upper classmen to size up the dating prospects.

First Day

First day reading assignments included briefs on *Groves v. John Wunder, Acme Mills*, and a bunch of introductory crap for property. The tension in Sullivan's Contracts class ran fairly high. When the first person was called on, and everyone realized what type of questions you were supposed to answer, tension ran REALLY high. Margaret McCain was the first person grilled by the Dean in contracts, and of course she was unable to give a satisfactory definition of economic waste. Not that there's a causal relationship, but the next day, Margaret McCain dropped out of law school.

On the first day of Tuesday/Thursday classes, Kim Chasteen and Sharon Wright had stopped into Hardee's for breakfast. A man driving a car started backing out of his space without looking. When he saw their car, he stopped so abruptly that he spilled coffee down his shirt. Sharon said, "I think that's one of our professors." Sure enough as Sharon went into Civil Procedure taught by Professor George, Nichol came in with a coffee-stained shirt telling George that he had to go home and change. He was wearing a clean shirt by Con Law.

Professor Hardy managed to scare the hell out of his Torts class when he covered the entire reading assignment in under 6 minutes. Pattie Soraghan was called on and had to admit she had bought the Torts book for Lebel's class. Undaunted Hardy asked, "Well what are they learning in Lebel's class ?" Unfortunately Pattie didn't know.

Student Life

We were out in force the first Thursday night at the Greenleaf prompting 3rd years to comment on how much cooler our class was than the anal second years. However, our class was so cool that both Con Law professors had to lecture us on the importance of being prepared for class. Nichol added that we shouldn't let our "touchy-feely" faculty advisor groups make us relax too much.

SBA elections saw several people running for first year representative: Patty Jennings, Holly Hamilton, M.L. Nawrocki, Monique Migneault, Tim Murphy, Will Murphy, Matilda Brodnax, Scott Finkelstein, and Dan Perry. The latter three were elected. Dan Perry's posters featured pictures of him cooking--"Chicks dig lawyers who can cook," cuddling his ALF doll, and extolling his virginity.

Will Murphy ran into a little first amendment campaign problem which would mark him as a rabid libertarian for the rest of his law school career. Will felt it was unconstitutional to prohibit the hanging of campaign posters before a certain date. He was disqualified from the ballot, and the judicial council rejected his claims of unconstitutionality. Several members of the class of '88 wrote into the *Advocate* saying they felt Will was a "boob" and "needed to grow up".

First year football was all the rage. Several disgruntled, weiner-body MBA students thought the first years were too rough. They gave Chris Brasco the nickname, "Vinnie Testosterone."

Pre- and post-class naps became popular as study hours stretched late into the night. Before Property, Charles Fincher and Scott Finkelstein slept in library chairs joined by John Fendig sleeping under a library table. They still have a warm spot for each other in their hearts.

The SBA Pig Roast uncovered a rising star. Marcia Asquith accompanied by a country/western band gave her rendition of "I'm Proud to Be an Okee from Muskogee."

Two first year teams competed in the lounge-a-thon for PSF. Cathie Amspacher and Karin Horwatt battled the "World's Most Dangerous Power Lounging Team" comprised of Will Murphy and Charles Fincher. The highlight of the evening was when 3 male, third years ran naked through the law school lobby with only bags on their heads. Unfortunately Ed Shaughnessy's bag fell off, and the other two streakers were identified also. It wasn't a pretty sight.

Under the direction of Cathie Lee, the first Date Auction was a roaring success. Most of the auctionees and bidders were first years. Matilda Brodnax was one very notable auctionee.

A popular place to study for first semester exams was the Moot Court Room. It had a great arena for impromptu wrestling matches. The first moot court competition was actually held there when Ingrid Olson was put on trial for being a barracuda. The Honorable Judge Amspacher presided.

Torts - Professor Hardy

Hardy shocked everyone by buying a composite, cutting out his student's pictures and making a deck of cards from which to call on people.

Hardy's torts class quickly became accustomed to doing strange things with Sumo wrestlers (hypothetically of course) and listening to the anecdotes of that nutty twosome, Bob and Alice.

Jerome Self had missed several days of class, and Hardy had noticed her absence. When she returned to class, she had her head bandaged and arm in a sling. She told Hardy that she needed his advice on a possible cause of action. She proceeded to tell him a story of disaster about driving down Jamestown Road with Bob and Alice and being accosted by space aliens. Always believing that any class dialogue might be on the exam, Brian Telfair took notes while Jerome told her story.

Several students were so enamored of Hardy's teaching abilities that they bought him 3 statuettes at the Pottery and placed them in his front yard. These lovely object d'art included a Japanese Sumo Wrestler, an embracing couple - labelled "Bob and Alice", and a set of praying hands - labelled "Learned Hand". They were last seen decorating his office.

Torts -Professor Lebel

Lebel explained about his exam, "You all think I'm trying to hide the ball. Well I'm not - not that I don't have any balls to hide."

Lebel responding to a question posed by Jim Grussing which Lebel thought was redundant, "What's the matter? Were you at the beach yesterday?"

Lebel after a year sparring with Tim Murphy, "Anything you wish to snarl Mr. Murphy?"

Property - Professor Butler

A gorilla delivered balloons to Chris Heimann at the beginning of class. Butler asked Chris to read the card. Eventually Kelly Barnes read the card aloud which said, "I want your savage body. From, the Beast Woman." Butler was unaware that "Beast Woman" was Chris' nickname for her. [The balloons were sent by some of Chris' friends - no doubt spearheaded by Ute Heidenreich.]

Butler's Property Exam. Need I say more ?

Property - Professor Rosenberg

Rosenberg taught both sections first semester. Everyone got to experience "Rockin' Ron." Perhaps Adam Christian experienced him the most.Hardly a day went by when Adam wasn't called on by Rosenberg.

Rosenberg helped several students take the first semester exam by putting some questions on reserve, taking them off reserve, then putting them on the exam. Rosenberg didn't help several students by placing a question about the Statute of Anne on the very last page which some people didn't see.

One day Rosenberg asked a question about sewer easements which no one volunteered to answer. He walked out of class saying that next time people might be prepared.

Civil Procedure - Professor George

Despite her pregnancy, there was electricity between George and Bill Van de Weghe. One such exchange, supposedly in reference to the limits of obtaining personal jurisdiction over a defendant: Bill to Professor George, "Suppose I want you ...." George to Bill, "In my present condition, I hardly think that's likely." Bill to George, "No I really **need** you ..." Double entendres flew right and left between those two. In a class where everyone was called by their surnames, he was always "Bill" to Professor George.

Civil Procedure - Professor Barnard

Jeff Craig could do no wrong. His rapport with Barnard earned him the name, "Mr. Sensitive".

Once Barnard constructed one of her elaborate, role-playing Barnard-esque hypotheticals. She randomly called on Mark Hall to respond. Mark Hall yelled out an impassioned, "NO !!!"

Con Law - Professor Ledbetter

When discussing *Bowers v. Hardwick*, someone observed that the state could outlaw sodomy because it served no procreative ends. Mark Hall responded that some people couldn't get aroused enough to procreate without sodomy, to which Dan Perry replied, "Don't bring your personal problems into class."

Ledbetter's class was a forum for Scott Dexter to voice his "enlightened" opinions. Over a year of school, Scott rejected Equal Protection, the UCC, tortious negligence, and the Federal Rules of Civil Procedure.

Con Law - Professor Nichol

He walked back and forth during the entire class like a caged animal and wrote illegible things on the board. Who would believe he was a Dean-to-be?

Con Law - Professor Devins

Professor Devins took over Nichol's class second semester. When we were discussing the *Cohen* free speech case, Devins illustrated the language in question by writing " f_ ck " on the board. Chris Brasco raised his hand and said, I'd like to buy a vowel."

Once Devins called on John Vollino to discuss a case. When John didn't answer, Devins asked him if he had read the case. John replied, "I haven't even bought the book." (It was only the supplement.)

To while away the hour, several students participated in a game of Con Law Bingo. Boards were constructed by several students - Tad Pethybridge blowing his nose was the free space. To win, you had to get Devins to call on you and make a comment that included the phrase, "It's a Constitution we're expounding." Even though several people had BINGO, no one had the guts to get Devins to call on him/her.

Who can forget Al Anzini's sister and all the invaluable help she gave in solving complex legal issues?

Contracts - Professor Selassie

Selassie taught his class many new contract concepts and pronunciations, e.g. Hair - loom = Heirloom, Un-in-for-see-a-bel = Unenforceable.

Chris Abel could do no wrong. After calling on several students and answering their responses with a curt, "No", Selassie would call on Mr. Able. Chris would give his explanation to which Selassie would respond, "That is exactly right."

After not attending Contracts for a while, Al Anzini made a guest appearance. Selassie stopped class to inquire whether Al was in that class. When Al assured him that he was, Selassie asked, "Are you sure you are in the right classroom ?"

Contracts - Dean Sullivan

The Dean called on Mike Tompkins to "talk" about a case. Before Mike could start talking, the Dean asked him to pull his shirt collar out from under his sweater.

Monique Migneault managed to stave off an attack of Socratic questioning by coughing until the Dean called on someone else.

Who could forget how limber Dean Sullivan was ? He could sit on the desks and contort himself into positions that normally you would have to pay big money at a circus to see.

Legal Writing - Professor Hillinger

Professor Hillinger was teaching at Emory and unfortunately was gone a lot. He did come back often enough to lose an entire section of students' open memos. However, we did get useful instruction about how to use the law library from some little mouse who would never speak up and who showed us pictures of the books that could be found in the library if you actually went there.

Kay Kramer and Ilya Nasty. What an intelligent sounding writing sample that fact pattern produced.

Anger at Hillinger ran high, and during a meeting of the large section of legal writing, the class finally exploded. Students kept raising their hands and asking him questions about the inadequacy of the program and his incompetence. The man practically cried. It was then that we knew we were on the way to being lawyers.

Tad Pethybridge

There were so many Tad stories that he deserves his own section. We all know Tad for his constant nose-blowing. Once Tad blew his nose in Civil Procedure, and Chris Brasco yelled, "Happy New Year !!" Later Tad told Chris, "I would appreciate it if you stopped flaunting your ignorance of my sinus problems."

Tad and Rosenberg had a showdown in Property. Tad always prefaced his hornbook questions with, "I'm a little confused about ...." One day he miraculously didn't preface his question this way, and Rosenberg said, "Notice this is the first time in a long time that Tad didn't say he was confused."

Tad was an occupant of the infamous Funeral Home. It is reported that everyday he woke Dave Ireland up with the cheery greeting, *"Hi, Mr. Daver !!"*

Tad did run into some bad luck when it was time to turn one of the memos in. At approximately 5 minutes before it was due, his disk crashed. Sources near the accident report hearing the most unearthly wail of pain as Tad flung himself against the wall and beat on it with his fists. Of course Hillinger gave him extra time to turn it in.

Tad was one of several who migrated to UVA, but his specter haunts the class still.

Parties

The Come-as-Someone-you-Would-Like-to-See-Dead Halloween party at the funeral home featured a shrine to Pennoyer. Mike Fuchs was a shockingly realistic Ledbetter. Dan Perry paraded around in diapers. There was a shocking amount of men who dressed as women - and looked good doing it. Gerard Toohey and Laurie Patarini were both dressed as Patriot Pass-toting tourons.

The End-of-First-Semester party was momentarily held at Jim Whitehead's abode. It was unceremoniously moved to the funeral home when the cranky Mayor of Williamsburg called the police to report the party for violating a noise ordinance.

Barristers' Ball was quite festive. Cheryl Hamilton advised Professor Barnard that, "All the guys think you have a great rack."

Of course the ultimate party was held at John Dotti's home to celebrate the end of Spring semester exams. Very few people were not thrown into the pond behind John's house. Memorable pond swimmers included Melissa Heydenreich emerging from the pond in her dainties, and Dave Ireland who emerged from the water in his boxers with momentary "barn door" difficulties. A memory many women still treasure was the sight of Eric Mitchell in his wet bathing suit.

The Dotti hot tub was never the same after 50 + people crowded into in various stages of dress. In fact the entire house was never the same - which may have been a contributing factor to John's decision to move.

John's daughters got an education about the dangers of alcohol. Robert Stevens indulged himself and started a heated debate as to whether he should be taken to the hospital. One of the Dotti girls asked her father, "Daddy, is he going to die?" Replied John, "No, he just needs to get sick - and not here." Very few people left the party sober, and many were thankful there was a bus provided to take people back to the law school.

Well, that's more or less the way we were as giddy first years. They aren't all misty water-colored memories, but we sure as hell can say, "What a long, strange trip it's been."

Moot Court Teams Take Honors

by Rob McDowell

Two second-year teams at the ABA's National Appellate Advocacy Regional Competition and one third-year team at the Cardozo/BMI Entertainment Law Competition excelled in their tournaments over the weekend of March 30th.

In Baltimore, the ABA team of Karyn Schmidt, Steffi Garrett and Lisa Entress finished second in the region, narrowly losing to Campbell University in the final round. Meanwhile, the team of Kelly Harrington, Caryl Lazzaro and Pat Allen finished third. The judges ranked Harrington second best speaker while Schmidt placed fifth. Both ABA teams earned bids to travel to the national level of the tournament to be held in Chicago this August.

The ABA regional tournament was co-hosted by Marshall-Wythe and the University of Baltimore. Moot Court Board members Sara Beiro and Melissa Heydenreich were the tournament saviors by offering their hard work and expertise gained in past moot court tournaments.

Meanwhile, in New York City, the Cardozo/BMI Entertainment Law Tournament team of Tonia Jones, Dave Keir and Rodney Willett was thrashing its competitors as well. The topic of their competition focused on celebrity "sound alikes" and the rights celebrities have in their "personas." The team eventually lost in the semi-final round to the University of Southern California, the eventual champion. USC is known for its prominence in entertainment law.

RODNEY WILLETT

ABA Teams (L-R): Karyn Schmidt, Lisa Entress, Steffi Garrett, Kelly Harrington, Caryl Lazzaro, Pat Allen.

The second place team nearly slept through the elimination rounds. "We were exhausted after the first day," said Garrett, whose mother flew from Milwaukee to watch the tournament. "Once we knew we were advancing, we frantically reviewed our arguments until three in the morning," Garrett sighed. In the midst of the excitement, no one set any alarm clocks. A mere thirty minutes before their quarterfinal round, "my mom woke us up saying 'ladies, you're missing your tournament,'" Garrett confessed. The team members did not argue in their pajamas however, and advanced all the way to the finals.

After advancing to the quarter-final round on Friday, the team had Saturday free. The secret of the team's success may lie in the fact that they did not review arguments on Saturday, but indulged in a partially nude off-Broadway Brazilian musical. Jones and Willett were slightly surprised at the lack of clothing, "but in keeping with the theme of the appellate problem, Dave became a sound alike by singing with the cast. 'Ohbah, ohbah' soon became the theme song for the weekend," reported Willett.

RODNEY WILLETT

Cardozo Team (L-R): Tonia Jones, David Keir, Rodney Willett.

LEXIS Advises: "Be Excellent"

by Will Murphy

The M-W Library (in the person of Mary Grace Hune) and Mead Data Central (the LEXIS people) presented a program that was totally awesome -- "Bill and Ted's Excellent Adventure: Life as a Law Firm Associate." The program, which featured three speakers, was held on March 30 and lasted about 90 minutes.

Kathleen Larsen is the Head Librarian of the Falls Church Office of Hazel, Thomas, Fiske, Beckhorn & Hanes. In contrasting the research that students do with that conducted by law firm associates, she emphasized the speed with which assignments must be completed in a firm. She recommended that new associates, including summer associates, develop a rapport with the library staff at the firm. A common pitfall, she warned, was assuming that materials were not available at the firm library and then wasting time going to another library to get them when they could in fact be obtained without leaving the office. Another frequent problem is "crying 'Wolf'" -- the practice of overstating the urgency of a request for staff assistance. According to Larson, library staff quickly grow wise to this and will not give that associate's requests priority once they identify his or her tendency to exaggerate.

Marcella Fleming-Hicks is an associate at the Richmond office of Hazel, Thomas. She gave advice on how to handle inter-personal relations with other employees and with partners. She used examples from her own experience. She found one partner to be very reserved and had difficulty becoming acquainted with him. However, she learned that he had an intense interest in boxwoods. When some boxwoods at her house began looking sickly, she approached him for advice. An hour-long discussion of boxwoods ensued (the things some people will tolerate to make partner!). The ice was broken and she had no more difficulty speaking with him. On another occasion, she received an assignment from a senior attorney and could not understand what was expected of her. The senior attorney could not understand her failure to understand. Rather than press the matter with him, she explained the situation to an associate whom she knew had worked with him. The associate, familiar with how the senior attorney's mind worked, was immediately able to translate the assignment into English.

Fleming-Hicks made another important point -- secretaries, librarians and paralegals can make or break your chances with the firm. They should not be treated with contempt. The same point applies to other associates. Fleming-Hicks related the story of a summer associate who had done excellent work. All of the partners were inclined to extend him an offer. However, all of the associates who had worked with him felt that he was an !@@#(*&!. He did not receive an offer.

The point Fleming-Hicks emphasized most was that the only thing that was fatal to a summer associate's chances of receiving an offer is a poor written product. She recommended that associates resist pressure to turn in uncompleted assignments putting explicit disclaimers on any assignments which had to be turned in before they were finished.

Malinda Murphy is the Mead Data Central representative for North Carolina. She explained how efficiently to employ LEXIS in legal research. Associates should find out the firm's policy for use of LEXIS right away. They should also consider how the firm bills clients for LEXIS as well as how Mead bills the firm. A number of specialized databases are available through LEXIS and NEXIS and should not be overlooked. Murphy recommended that students take advanced LEXIS training to improve their speed and efficiency in using the database.

The presentation was sparsely attended, due to meager publicity and to being held on a Friday (the latter necessary to accommodate the speakers from Hazel, Thomas). Further, some of it would be of only limited interest to those who have no intention of practicing with a mid-size or large firm. However, a large portion of the material would be useful to anyone planning on a legal career. Even better, Mead picked up the tab for lunch. In spite of the silly name, I give it a thumbs up.

1990-1991

ADMINISTRATIVE LAW REVIEW staff:

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Andy Condlin
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Joan Quigley
Vivian Seay

"The Bar's Conscience" Speaks Up

by Marian Bloss, Drake Law School, LSD Liaison to the Section on Individual Rights & Responsibilities

AIDS PROJECTS

Well-deserving of its nickname, "The Bar's Conscience," the Section on Individual Rights and Responsibilities invested two years of work into developing comprehensive policies relating to AIDS and HIV. The hard work paid off last year when the ABA House of Delegates formally adopted the policies, making the American Bar Association one of the nation's most progressive professional organizations in this very sensitive area.

Since the policy adoption last year, the ABA AIDS Coordinating Committee and the ABA AIDS Coordination Project, entities of the IR & R Section, have focused on judicial education and the pursuit of outside sources for funding of needed materials. Three high priority projects are targeted for production: a thirty-minute introductory video for lawyers on AIDS and HIV, with an accompanying program guide; a nationwide directory of AIDS and HIV legal referral and legal services programs; and a comprehensive training manual for attorneys representing persons woth AIDS and HIV on a *pro bono* basis.

The AIDS Committee/Project personnel are presently conducting a survey to learn more from the *pro bono* programs which are already established around the country on behalf of AIDS/HIV persons. They are also conducting workshops, and training other attorneys to conduct workshops, on how to develop local *pro bono* programs in their communities.

HUMAN RIGHTS ACTIVISM

Another area of activity for the Section on Individual Rights and Responsibilities is the International Human Rights Trial Observer Project. With funding provided by the Ford Foundation and the J. Roderick MacArthur Foundation, prominent American lawyers are sent overseas to observe political trials with significant human rights implications.

In January of this year, an ABA observer was scheduled to observe the contempt of court hearing of Mr. Manjeet Singh, the Secretary of Malaysan Bar Council, before the Supreme Court of Malaysia. Manjeet Singh's contempt charge appears to be a retaliation to efforts by the Bar Council to protest the summary dismissal of three Supreme Court Justices in 1988, an action which has seriously undermined the independence of Malaysia's judiciary.

Shortly before the hearing, more than 300 Malaysian attorneys, including all past presidents of the Malaysian Bar Council, filed a motion to intervene as respondents on Manjeet Singh's behalf. The hearing has now been temporarily postponed and, although no official reason has been given for the postponement, the efforts of the Malaysian Bar Council and the International Human Rights Trial Observer Project to publicize the infringement of Manjeet Singh's rights may prove to have had some influence.

Human rights have been under serious attack by the Malaysian government since 1987, when more than one hundred political and social activists critical of the government were arrested and held without trial, some for more than a year. The Malaysian government has taken steps to weaken democratic institutions, including the political opposition, the press and the judiciary. The Malaysian Bar Council has been a vociferous defender of human rights during this time and is now in serious jeopardy.

The Human Rights Trial Observer Project has future plans to expand its work into the law schools by involving international law societies in its letter writing campaigns and appeals abroad. The IR & R Section is also active in other areas of concern to law students: rights of women, the homeless and disadvantaged, minorities; nuclear arms control; environmental and consumer protection; immigration; criminal justice; the death penalty; legal services; the First Amendment; privacy; and other crucial "people issues" of our time.

If any of these issues are related to the reasons *WHY YOU CAME TO LAW SCHOOL IN THE FIRST PLACE*, then you should join the ABA Section on Individual Rights and Responsibilities. As a member, you will receive the section's magazine, *Human Rights*, three times yearly, as well as the newsletter.

Ask your law school's ABA/Law Student Division Representative to give you an enrollment form. The form carries instructions on joining the ABA/LSD and the Section on Individual Rights and Responsibilities.

Boies' Six Points of Light

by Mary Francis

The *Advocate* recently conducted it's own "Meet the Press" session with the newly-elected SBA president, David Boies. His unusual campaign approach involved tactics reminiscent of Detroit car promotions ($500 rebate . . . 90 day trial with option to buy . . .) But Boies was asked to explain how his six-point plan of action would fare at Marshall-Wythe.

Boies' campaign promise was that he would accomplish or get firm commitments related to six specific goals within 90 days of his assuming office next fall or he would resign from office. Additionally, Boies offered a $500 wager to anyone who would take him up on it: if Boies does not accomplish his six objectives within the 90 day period, he will pay $250 to the Public Service Fund and will bankroll a five-keg law school party.

These six goals that will receive utmost attention next fall are:

1. Academic Credit for Moot Court

Over the past few years, many students have worked fervently to achieve academic credit for participation in the Moot Court program. Boies emphasized that progress has been made toward this goal and admitted that he will not "change the tide of history" in that the administration has already publicly conceded that Moot Court participation merits academic credit.

When asked what he personally can add to the cumulative effort to achieve this goal, Boies isolated the lack of funding as the major stumbling block. He commented that "other things that get money [from BSA] do not, in my opinion, rise to the level of importance of Moot Court." He stated that as president of SBA he will investigate possible sources of funding and come up with a workable proposal.

2. Better Parties

Boies would like to see a better variety of food and beverages at the Grad Thing and other social functions. His suggestions include wine coolers, colder beer, punches and more substantial food than the snacks currently offered.

In particular Boies wants to improve the Barristers Ball. "When I came [to Marshall-Wythe], I was told that Barristers Ball was a classy event . . . the height of social events. It hasn't turned out that way." Boies cites the location of the event and the food and beverages served as areas that need improvement.

3. Publish Professor Evaluations

Boies would like to see the *objective section of faculty* evaluations tabulated and published in the *Advocate*. He stated that it is important that students be apprised of this information and further that it promotes better teaching when faculty are accountable in this way.

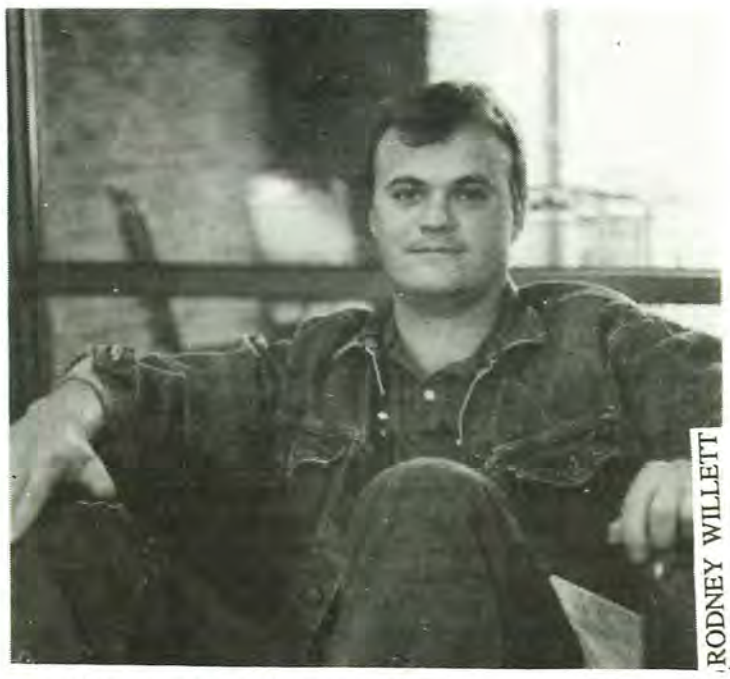
4. Expanded Library Hours

When asked exactly what he proposed, Boies responded that he would poll students to find out what hours would best serve the student body. According to Boies, he made this a part of his campaign platform upon noting the popular dissatisfaction among students with current library hours. "One of the big problems is with Legal Skills in that all of the resources are being used by the same people during crunch times."

5. Controversial Speakers

Boies pointed out the benefits of hosting controversial speakers on campus: they are interesting to students, the controversy breeds constructive dialogue, and having controversial speakers would likely bring publicity and visibility to Marshall-Wythe.

When asked how he reconciles his position with the fact that student organizations are often the ones who select and invite speakers, Boies stated that "It was part of my specific platform and people elected me based on this. I think it's important that people be exposed to different points of view . . . . I think even the picketing [of someone controversial] is not all bad."



RODNEY WILLETT

6. More Real Estate Law Courses

Boies remarked that familiarity and expertise in real estate law is becoming increasingly more important. Additionally most top-ranked law schools offer a variety of real estate courses. "As an example, at Northwestern law school, second-year students have their pick from six different real estate courses. Here, there is only one real estate course, and no second-years were able to take it this semester." Boies stressed that, in addition to access to the introductory course, students "should have the option of getting an extensive background in real estate."

When asked generally about his approach to presiding over the SBA next year, Boies identified what he believes is the "common malady" among student governments: that they generally are not agenda-driven. According to Boies, "having a grand idea is fine, but people care about getting specific things done."

Innovative Profs Bag Socrates

by Garet Binzer

We asked certain professors, whom students generally think of as innovative, to describe their teaching techniques. Surprisingly, most of them did not think that they were doing anything especially innovative. They did, however, offer opinions as to what *effective* teaching is all about.


CAROLYN HANSON

PROFESSOR SMOLLA:

"Being a law school teacher is more about being a teacher than being in law school." Professor Smolla explained that the characteristics that make a good teacher are common to all teaching environments, whether elementary school, medical school, or law school. Great teachers stimulate learning -- to open minds, to create excitement about learning, to challenge students to be creative and think on their own. The method used is not important. It's chemistry and it can be accomplished in many different ways, it's "more the energy you put into it and the care you use."

PROFESSOR BARNARD:

"Let's talk about innovative and effective students." Professor Barnard believes that the greatest gift to the classroom comes from the back, those who express curiosity or confusion and don't feel *inhibited*." Professor Barnard tries to create a structure in which students can say "that's crazy". "The less I have to talk the more everyone else learns!"

Barnard believes that the material she teaches often lends itself to the use of problems and role-playing. "It puts students in the shoes of lawyers and clients" and "makes the material more accessible and less impossible to learn." She believes that if she makes the experience a little different, then "students will stay with me."

The *Wall Street Journal*, according to Barnard, has frequently been a helpful teaching aid. Although it is "not innovative to read the newspaper it's great when you can use it in class." Seeing real life application helps put "flesh on the bones of a theory."

PROFESSOR LEBEL:

LeBel uses different styles and different approaches depending upon the size of the class, the personality of the class, and the subject matter to be taught. "Asking questions develops analytical skills" which every student needs when they go out into the legal profession. "When you [students] feel comfortable reading a case and noting the rule in the margin -- that's when we [professors] need to push you." LeBel proclaims that if we're not developing students' skills "then it's a fraud, we shouldn't be taking their money and keeping them here!"

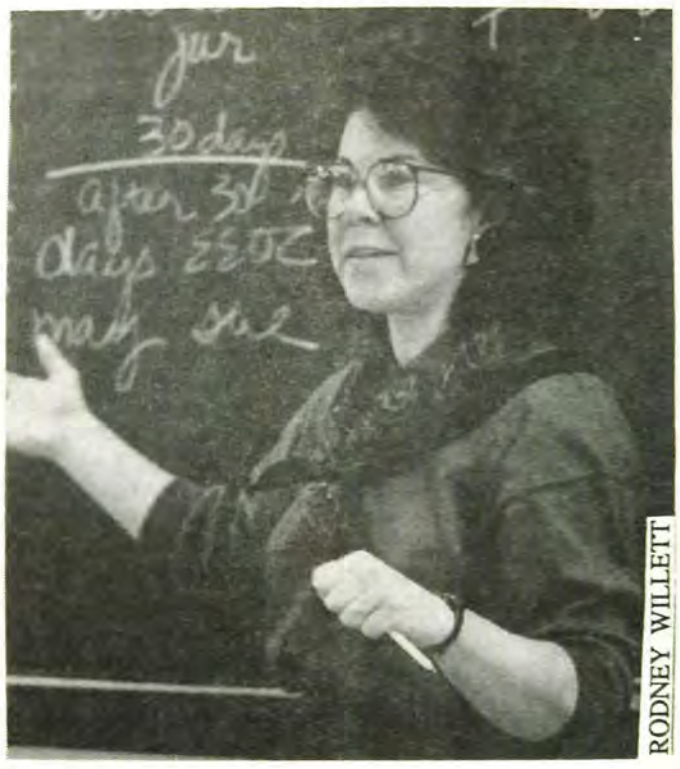
PROFESSOR GROVER:

Susan Grover says if she's innovative, "maybe it's because I don't know any better." Professor Grover believes that you have to "keep their attention to teach them." That includes changing pace, giving a fresh new angle, and doing something surprising to keep students focused. Problem solving and student presentations keep students engaged. "Different people learn differently." Grover explains that some students lose out in a stressful environment, students are so worried about getting the right answer that it gets in the way of their thinking. Grover believes that learning is promoted by a comfortable environment which allows students to keep a positive attitude toward class.

PROFESSOR MOLITERNO:

Effective teaching to Professor Moliterno is a commitment to be "thoughtful about how [a subject] is presented." As for innovations, he says he sees "innovations each week" in the Legal Skills program. An example can be seen in the way in which the program teaches ethics. Ethical rules are integrated into day-to-day lawyer activities. "Our students demonstrated in their trials where ethics fit in. This is not seen when professional responsibility is taught as a separate course." The professor finds it "gratifying to see concrete results of the integrated program." Combining "ethics and skills pays dividends..."

In the larger legal education community outside of the law school, Moliterno senses a change in attitude among faculty regarding skills teaching. "We're sensing less conflict between substantive law classes and legal skills programs. Skills programs are beneficial to substantive law classes" and vice versa. "It's nice that that relationship is acknowledged here" at Marshall-Wythe. Moliterno said that "acceptance of that notion elsewhere will make more people willing to think about innovative teaching methods."


RODNEY WILLETT

Good teachers are effective using their own individual style. What makes our professors innovative? It can be summed up by a common thread in the professors' comments . . . commitment, energy, care, challenge, chemistry. . .that's innovation.

1990-1991 *ADVOCATE* Staff:

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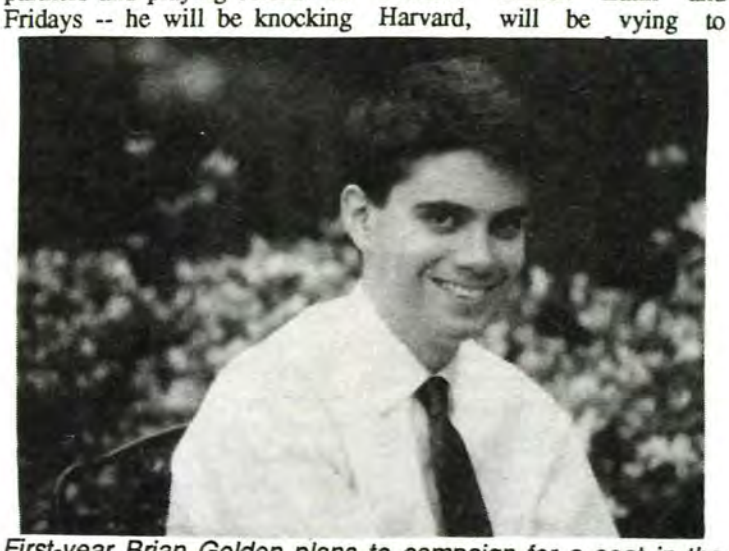
Positions still available -- if interested, contact Steffi Garrett.

Launching Golden Campaign for Office

by Peter Kay

First-year Brian Golden's summer job will involve more than drafting memos for partners and playing softball on Fridays -- he will be knocking on doors, kissing babies, and organizing fundraisers for his campaign for Massachusetts' House of Representatives. Golden, a Boston native who attended Boston Latin and Harvard, will be vying to represent the Allston-Brighton section of that city.


First-year Brian Golden plans to campaign for a seat in the Massachusetts legislature.

Introduced to the rough-and-tumble world of Boston politics by his family, Golden has been involved on a "foot soldier" level since 1978, working for mayors, legislators, and representatives. In 1988 he successfully managed the campaign of Richard Rouse in the tightly contested election for Clerk of the State Supreme Court. Now he is ready to enter the fray as a competitor.

Golden's campaign, which will be managed by first-year Richard Brooks, centers around economic issues: job security, retirement pensions, health care and college funding. Ever since Dukakis' "Massachusetts Miracle" collapsed into a billion dollar debt, confidence in the state's economy has eroded. Golden feels that the state's economic core is essentially sound, and that key high technology industries such as DEC and WANG can be revitalized through legislative and private initiative. The subsequent tax revenues and employment opportunities will be in the best interests of his potential constituents.

Golden hopes to enter politics because "I'd rather help set the legal parameters than operate within them as a practitioner." For Golden, the legislative process is the most democratic, effective, and ultimately legitimate source of legal authority. Boston's gain however, would be Marshall-Wythe's loss -- if Golden wins the September 18 Democratic primary (which is tantamount to a complete victory in Massachusetts), he will quit law school here and attend part-time in Boston. Regardless, he will take next semester off to run his campaign.

In any New England election, the "Kennedy Issue" must be confronted. Golden "thanks God" that none of them is running against him, and actually hopes that the several Kennedys living in his district will vote for him.

A Harvard graduate and son of a Newton policeman, Golden feels that he can best address the population of his district, which is half blue-collar and half young professional. Golden is confident that he is in the running : "I have a good shot -- I sincerely believe I can win this thing."

Election continued

already been removed from the list. Accepting this vote not only created a tie for position of runner-up, but confirmed the fact that the election was flawed. If a healthy margin had existed between each candidate, the discrepancies might not have been so significant. One member of the Judicial Council stated: "my personal opinion is that if each candidate had been separated by more than eight votes, [the election peculiarities] would not have justified returning the ballots for re-election." The close race between Lazzaro and McDonough, however, created the awkward situation of leaving exactly one candidate out in the cold. In the face of clear election inconsistencies, the Judicial Council was unwilling to make such a decision.

Although members of the Judicial Council declined to hypothesize concerning the additional "mystery" votes, two explanations come to mind. One or more law students conceivably could have copied the voting ballot and "stuffed" the ballot box. Alternatively, those students in charge of the election process simply failed to mark off the names of all students who had voted. Either way, the possibility of incorrect results concerned the Judicial Council.

In order to avoid any taint of foul play, the Judicial Council decided to conduct an entirely new election. To remedy the discrepancies of the first election, students who wished to vote were required to furnish their W&M student I.D., and names were diligently struck off as each I.D. was inspected. The generally "greater control of process at the ballot box" seemed to be a successful solution, according to Will Murphy, since "the subsequent elections ran perfectly."

The subsequent elections may have "run perfectly" procedurally, but they ran to the misfortune of the leading contenders. The additional week available for campaigning allowed candidates to further substantiate their campaign strategies, with surprisingly different results. David Boies, originally the trailing candidate, sailed to the forefront to enter an election run-off with Caryl Lazzaro. Initial favorites Leedom and McDonough lost the election in the first wave.

Some students may be concerned that this election incident reflects inadequacies in the election process. Robert Chappell (3L), Chairman of the Constitution By-Laws Committee, created an amendment that might have avoided such concern. Chappell's amendment would have created a three-person election commission to admister all SBA elections, removing any involvement by the Judicial Council except its retainment of appellate jurisdiction concerning election complaints. However, this amendment will not be offered for student approval this semester.

Boies' innovative campaign tactics may have been the key to his success. He is certainly the first candidate in this reporter's memory to promise to "resign if I have not met my campaign goals in 90 days," especially when such goals include long-sought prizes such as *credit for moot court* members and extension of library hours. Whatever the reasons, Boies clearly impressed some voters: he won the run-off election by a margin of 16%.

Now all we have to do is sit back and wait for moot court credit.

Computer Update

by William G.Grim

As the semester comes to a close and the papers come due, now more than ever you do not want to see "Disk error 25." This error occurs when the computer is unable to read a track on your disk. This may be because of a bad spot on the disk or an incompatibility between the disk and the computer.

Very often the problem is caused by heat. So, if you come back later and try the same disk, it will sometimes work.

If you can't wait that long a trick may work. Using a blank disk, copy the failed disk using selection "5." During the copy process the computer will warn you that a bad track exists. However, the new disk should have most of your document in usable form.

OTHER COMPUTER NOTES

Next year Word perfect 5.1 should be on the computers. It is not very much different from Word perfect 5.0. We will be making greater use of the Rugged Writer printers after getting quiet boxes for them. During the Legal Skills memo time (March 3 to March 30) we used 19 Laser Jet cartridges. At $70 a shot the usage gets expensive.

So far there has been no progress on getting LEXIS or WESTLAW into the computer center. The hitch has been getting authorization for an off campus line.

Patarini Scholarship Created

by Steffi Garrett

A scholarship in memory of Laurie Patarini is being established for second-year students. Pam McDade (class of '89) and Cathie Amspacher (3L) are the organizers. "We decided to start this scholarship because a good student never got to graduate -- we'd like to help a student in their third year," explained Amspacher. Patarini, a member of the class of '90, was killed last summer when a car driven by a drunk driver crossed the median and hit the car Patarini was driving.

The memorial, which is still in the fundraising stage, will take about five years to establish, according to Amspacher. Because a fund cannot be officially labeled a "scholarship" until a $25,000 endowment is established, the Patarini money will be given as an "award" once the $10,000 thres-hold required by the school is reached. The award will be presented to a second-year student at the graduation ceremony of the class before him/her. Criteria for the award are not yet settled, but several qualities which would be appropriate to a fund bearing Patarini's name are being considered. Achievement in Moot Court, something in which Patarini excelled, is one such attribute.

The Patarini scholarship is one option for the class gift for the class of 1990. A letter from McDade and Amspacher explaining the award will be enclosed in the pledge form that third-years will receive in the next week. In addition, McDade and Amspacher will make phone calls to members of their classes to solicit contributions. To ensure the success of this endeavor, a representative from the class of 1991 is also needed. Interested parties should contact Amspacher.

PSF Scholars Named

The William & Mary Public Service Fund is pleased to announce that it has awarded four full scholarships and eight partial grants this year. A total of over $18,500 will be distributed to twelve Marshall-Wythe Students who will work with public interest organizations this summer. These awards would not be possible without the generous support of the students, faculty and administration. The Board and the scholarship recipients thank you for your efforts. The scholarship recipients and their employers are:

Heather Benjamin	Virginia Peninsula Council
Eric Branscomb	Blue Ridge Legal Aid
John Fernando	Peninsula Legal Aid
Steffanie Garrett	Denver Public Defender
Amy Jarmon	Commonwealth Attorney
Gerard Marks	Attorney General at Richmond
Judith McKenzie	National Whistleblowers Center
Pamela Mendlehoff	Attorney General at Richmond
Tina Smith	Attorney General at Richmond
Eric Turner	Maricopa Legal Aid
Kathleen Wobber	National Whistleblowers Center
David Zeimer	People for America

Remembering Malcom, Martin & Bobby

by Kevin Antoine

Over twenty years have past since the assassinations of Malcom X, Dr. Martin Luther King and Senator Robert Kennedy. The themes of their lives now seem exotic amid the conservatism of today. Each of them was on a journey of reconciliation, seeking to bridge the schisms in American society--between urban and suburban, between north and south, between rich and poor, and between order and dissent. All three gave their lives so that the United States would one day live out the true meaning of its creed.

Today, in contemporary American society we are nowhere nearer that creed than we were in 1965 (the year Malcom X was assassinated) or 1968 (the year Dr. King and Senator Kennedy were assassinated). Evidence of this is in a recent study which revealed that one out of four young African-American males is in prison or on probation. Here at William & Mary it took the Affirmative Action Director of the College and the Dean of the law school eight months to decide procedurally who should investigate an alleged prejudicial statement made by a professor at the law school to a law student.

Some would argue that American society has made great progress as evidenced by the large number of African-Americans, Hispanic-Americans, and females that have been elected to state offices, or the number from these groups that have graduated from institutions of higher education. To a certain extent this is true. However, societal change cannot be measured by the increase in number of non European-American males in the areas of politics or education alone. Societal change is measured by the increase of economic empowerment and diversification.

When Malcom X returned from his first pilgrimage to Mecca, he understood that the economic condition of African-American society would not improve unless the government of the United States was held accountable for its grave condition. Malcom X concluded, in my opinion correctly, that the one organization that could and would help his cause was the United Nations. Before he could address the General Assembly of the United Nations, he was assassinated.

In the last years of his life Dr. King understood that the civil rights struggle in the United States was interdependent on the struggle for self-determination in Africa. More importantly, Dr. King focused on the great economic disparity that existed between non African-American society and African-American Society; between the democracies of the West and the Continents of Africa, Asia, and South America. He was slated to address these concerns at the climax of the Poor Peoples Campaign in the Summer of 1968. He did not live to give that address.

Robert Kennedy agonized over the sense that the disparities of power and opportunity in American Society were acute and becoming intolerable. After the assassination of his brother, he increasingly identified himself with the desolated and injured people of the United States. In a speech given at the University of Mississippi he stated that: *"Today, in America we are two worlds. The disparity between power and opportunity in American Society is not acceptable and need not be accepted. We diminish ourselves as a moral community when we accept them."* After winning the California primary, Senator Robert Kennedy was poised for the 1968 Democratic nomination for President. He was assassinated seconds after giving his victory speech in California.

Though Malcom, Martin, and Bobby are gone, their legacies are here with us. If international scrutiny can bring Pretoria and the African National Congress to the negotiating table, just think what it could do about the deplorable unemployment rate in urban inner cities, or the inequality in education (where wealth of the local district determines the quality of the education--i.e. suburban vs. inner city). If we begin not to accept the alarming disparity between power and opportunity in American society there would only be one world in America.

One world where all Americans could say with new meaning the that the United States is truly the land of the free and the home of the brave! Malcom X, Dr. Martin Luther King, and Robert Kennedy are no longer with us, but their legacies have survived. What are we going to do? THINK ABOUT IT!

Separated at Birth

Gene Elder

Queen Elizabeth

Tim Davis

Joan Pearlstein

PDP Hosts Trip to High Court

by Liz Newbill

On Tuesday morning, March 20th, 47 students corralled in the lobby for Phi Delta Phi's sold-out annual trip to the United State's Supreme Court. The group had a chartered, well-air-conditioned bus for their journey to see the gods and goddess in action, with doughnuts, muffins and juice provided to fortify the members for their upcoming personal audiences with Justices Scalia and Kennedy and for Oral Arguments before the entire Court. At 11:45, after assistance from Tracey Nelson and her trusty map, and from Chris Lande as the winner of a quick "Who knows the way to the Supreme Court" survey, the group arrived at the Supreme Court building for their first appointment. From 12:00 to 12:30, Justice Scalia fielded questions from the group, with responses on topics ranging from the appropriateness of the currently extensive Supreme Court Nominee investigations to the value of a Supreme Court whose members reflect a cross-section of generations. From there, the group was escorted to the Courtroom for priority seating to hear the afternoon's argument, unfortunately a real snoozer of a Federal Energy Commission case.

Even though the case was a bit tedious, seeing the Court and the attorneys before it in action was both informative and insightful for the group when considered with Justice Kennedy's later remarks on the quality of oralists that come before the Court and the dynamics of the Court when on the bench. Justice Kennedy was extremely generous with his time for the group, the audience lasting a full hour. As he weaved his answers to questions from the group with anecdotes from his life experience and his personal view of life as a lawyer and the future of the profession, Justice Kennedy's history as a law professor shone through. His visit with the group was truly memorable and appreciated by all.

After the audience with Justice Kennedy, the group adjourned to "The District" to reconvene two hours later for the trip home. A variety of refreshments (lite and regular) and entertainment by the 2L group, "The Questionaires,"* were provided to the weary and thirsty travelers to help them forget the cold and dreary weather during their trip back to the 'Burg.

* No relation to the "Questionaires" musical performance group.

Students Crush Faculty. Again.

by Some Editors

After plaguing the faculty with obnoxious memos, elisting the aid and hamburgers of P.D.P. and the dubious sports prowess of the *Admninistrative Law Review*, obtaining a liquor license, reserving and re-reserving a softball field, garnering all necessary equipment (bats, balls, bases, ice and beer), paying off the weatherman, and compiling a batting line up, the *Advocate*'s Mary Francis and the *William and Mary Law Review*'s Clay Campbell settled down Friday afternoon at Dillard Field to watch the game pitting Marshall-Wythe students against the faculty. Here are their observations*:

Clay: Who do you think is going to win?

Mary: The faculty.

Clay: No, I mean the real contest: the beer debate.

Mary: What do you mean?

Clay: We've got five cases each of Bud and Bud Lite. What's it going to be, "tastes great," or "less filling"?

Mary: Oh. . . . "Tastes great," definitely.

Clay: Wrong. "Less filling."

* * * * * * * * * * *

Clay: Man, the faculty looks a little out of shape. Do you think they'll last seven innings?

Mary: I don't know, but I know they've been praying for rain all week. It sure was swell of so many of them to turn out for the game, though.

Clay: Yeah. They're up first. Look, LeBel just popped a single (I think it would've been a double in his younger, leaner years).

Mary: Tomlins is up now. Poor guy is looking for a flat bat; he thinks we're playing cricket.

Clay: Ooh, but he got a hit. Wait, now he's running back and forth between first and home; he does think its cricket.

Mary: [popping open her first beer--a Bud Lite] Good hit, Professor Koch!

Clay: Naw--Jeff Kaufmann dropped that on purpose, trying to make brownie points.

[Some time later. The score is Students 3, Faculty 2. Bud Lite out in front, thanks to Mary and a few others.]

Mary: C'mon [Lisa] Cahill. Hit it to left field. There's a huge hole where Heller isn't letting anyone else enter "his space."

MARY FRANCIS

"Please, let us win just this ONCE!"

Clay: [sipping a Bud]A hit! Larry [Ostema] is rounding third; I think he's going to score. Yes! Rabban's throw wasn't even close. The softball fields must be bigger in Texas.

Mary: We're actually winning. We won't have to lie about the score after all.

Clay: Yeah, but the faculty is bound to complain about something. Who's leading the real contest?

Mary: Bud Lite, but Bud's gaining ground.

[Later still . . .]

Clay: Nice pop by Butler--oops, she went down. Is she all right?

Mary: A little ice on her ankle and she'll be O.K. I think she tripped on a hole.

Clay: I don't see any hole.

Mary: There must be something there. Dean Tim just hit the turf too.

Clay: You don't suppose one of the "real" contestants played a role, do you?

Mary: I don't know, but they wouldn't be hitting the ground so hard if they'd been drinking Bud Lite. After all, it is less filling.

[During the next several innings, despite Professor Butler's normally precise pitching, Professors Felton, Smolla and Rosenberg's batting, and Professors Heller and Dean Sullivan's fielding, the students increased their lead to 10 to 3. Tom Cody, Tom Broadhead, George Leedom, Jeff Kaufmann, Laura Kerrigan, Bob Carll, Kimberly Thompson, Dan Perry and Mike Flannery all got hits, or at least the authors seem to recall them playing. . . . And Bud took the lead away from Bud Lite, as Clay left to get more beer for the players and spectators.]

Mary: Gee, I wish Clay would get back with the beer. I'm up to bat. [Plink! Huff, huff, huff . . . .] Damn, tagged out at first.

Clay: Nice hit, Mary. Here, have a beer. [Pop. Fizzzzzz.] Did I miss anything?

Mary: Not a whole lot. Look up there in the brackets, it's all written down. We skipped over you while you were getting beer. Why don't you bat now?

Clay: Because that would go against the natural order of things. Look, everyone's name is on this paper, with their batting positions written down. I can't just break into the line-up.

Mary: Wimp!

Clay: It's written down!

[Clouds, which had been gathering during the course of the game, begin to let a few drops fall. The faculty are noticeably pleased. A few appear to have their eyes closed, their heads tilted back and their lips are moving silently. The students are up 15 to 3.]

Mary: Hey, are you hungry? PDP brought a ton of food. I'm gonna get a hot dog.

Clay: No, but could you bring me a beer and the tally on that contest?

Mary: Bud, or Bud Lite?

Clay: Surprise me.

[Mary leaves. Gerard Toohey claims to have hit a home run, but no one will substantiate it. The game enters its final inning and the faculty are up to bat. If they don't score 12 runs (fat chance), they lose. Mary returns.]

Mary: Bud Lite is back in the lead. I see Dean Williamson hurt his back again.

Clay: Yeah. Uh Oh. Another pop up. Two down and one to go. Who hit that one?

Mary: I don't know. Look, another pop up; the game is over. Students win, 15 to 3.

Clay: Who hit the last fly ball?

Mary: I don't know, I was on the Llama trip; we left 30 minutes ago.

Clay: I don't know either. I was trying to find out which beer was winning. I guess we'll have to make something up.

Mary: No. Leave it unanswered; it'll be a big mystery. Besides, the faculty will get mad if you incorrectly credit one of them with the loss. Who won the other contest?

Clay: It's a tie, with only these two left.

[Clay holds up two cans, one Bud, the other Bud Lite. He *tosses Mary the Bud.]*

Mary: Thanks. Here's to the game.

[Clink. Pop. Pop. Fizzzzz.]

**The characters depicted in this dialogue are fictitious; any resemblance between them and real persons is entirely coincidental.*

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Llamarama Rained Out

by Street, Middlebrook and Leedom

The afternoon sky was deceptively sunny as Baily the Bus Driver roared into the Dillard Complex to collect this year's Llama contingent. With a snap of his whip and a hearty "get on the damned bus, the beer is getting warm!", King Llama, Jeff Middlebrook herded the merrymakers toward their inevitable doom. Meanwhile Queen Llama, M.L. Nawrocki iced down the Golden Nectar and prepared the virgin Llamas with the sacred facial war paint. Soon a wild wind began to blow and rain battered Baily's Bus. It began to become apparent that the possibility of the game taking place was dwindling with each drop. It seemed as though the Llamas would have to play with themselves this year.

The King and Queen were undaunted however, and with a "brilliant" rendition of the Llama prayer the pilgrimage proceeded with random abandon. Early favorites for next year's Queen became readily apparent, but disappointment was shown by Llamettes Mary Francis, Anne Wesley and Cathie Amspacher when they found that third-years were disqualified. The disappointment was shortlived, however, as a call for a Llama chug came and the inebriation process was kicked into full gear. Meanwhile Baily motored on to "The Diamond" where the Llamas had a scheduled rendezvous with the Richmond Braves and _?_. [When asked to fill in this blank Queen contender Laura Dalton was quoted as saying, "Who cares. What does this have to do with baseball anyway?"]

Soon, the Llamas reached the playing field but the rain continued to fall past the time for the first pitch to be thrown. Stadium officials refused to call the game and this left a light burning in the hearts of the Llamas (as evidenced by continued renditions of "Take Me Out To The Ballgame"). Soon the rain subsided, the infield cover was lifted and the entire stadium joined the Llamas in a rousing version of the Star-Spangled Banner.

The Llamas seized this opportunity to spread goodwill throughout the stadium. This included purchasing peanuts, dogs and beer at every location they were offered for sale, barter or exchange. Mike Miller and Cattis Werneman (that Swedish Heartthrob), who had just come from an incredible co-rec golf victory (score of 79), handled the P.R. duties for the entire group, professionally fielding questions during a T.V. interview with WXEX, along with Governor Douglas Wilder. To show his affection for Miller and the

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Softball in the Snow

by Northern Tub of Goo

This past weekend, 10 hearty (or foolhardy) souls trekked up to Charlottesville to participate in UVA's Seventh Annual Law School Softball tournament. With 30 entries from 27 law schools, the field promised to be the toughest ever.

W&M's entry experienced difficulties before the tournament even started. About midweek, the team learned that its star second baseman, E.G. Allen had fallen ill to a fatal disease called geekitis and would not be able to make the trip to UVA (E.G. had to stay home so he could edit articles for law review.) Fortunately for Team W&M, E.G. provided a stellar replacement, Greg "M&M" Caskor.

The tournament took on a different color before the first game was even played. Friday night as the team journeyed to UVA, the team encountered a snowstorm unrivaled in these parts. Despite the hazardous road conditions, the team made it up to Charlottesville safely, where members immediately began to prepare for the next day's games by getting drunk.

As team members awoke the next day, they were startled to discover that it had snowed throughout the night, leaving about two inches of the white stuff on the ground--it promised to be an interesting day. The snow caused the first games to be pushed back two hours--allowing for Team W&M to gather its players who had straggled in from destinations previously unknown with accompaniment previously unknown.

By the time our first game rolled around, the boys were biting at the bit. The first opponent was the University of Michigan--a perennial powerhouse. Unintimidated by the opposition, Team W&M jumped out to an early 3-0 lead behind the hitting of Dan "Captain, My Captain" Perry and Al Clark. But in the true spirit of Team W&M, the team squandered many offensive opportunities (leaving 7 men in scoring position), before squandering its lead and losing to a far inferior U of M team, 7-5.

Undaunted, Team W&M took to the messy field hours later against Hofstra, seeking to rebound from its earlier defeat. Hofstra appeared to be a formidable opponent with uniforms that said "Murderers, Inc." However, it soon became evident that all Hofstra could murder was a ground ball. Consistent hitting by all, especially Van "Professor" Dorsey and Al "Anselm" Anzini, spearheaded an attack that saw team W&M mercy the boys from the North 14-2. The game ended appropriately when Al Clark blasted a three-run homer to send "Murderers, Inc." packing.

The final game on Saturday against the Hoyas of Georgetown turned out to be the best game of the tournament. The lads from Georgetown, who all had a picture of Lisa Cahill under their hats, jumped out to a 5-0 lead in their first at bat. The men from W&M answered back in the bottom half of the inning scoring 8 runs of their own behind a grand slam by Gary "Mr. Sensitive" Reinhart. The lead switched back and forth throughout the game; in their last at bat, the Hoyas retook the lead 13-10. As dusk settled on the soggy field, things didn't look good for Team W&M. But led by clutch singles by Bryan "A Girl in Every Town" Guidash, Sean "Romeo" McMullen, and V.D., Team W&M scratched away at the Hoyas lead. The stage was set: bases loaded, one out, score 13-12 Hoyas and little Davey Ireland at bat. Little Davey battled the pitcher to a full count before he reached out with all the little red-headed strength he could muster to launch a line drive to right that tied the game. The next batter, who is much cuter than little Davy, hit a sacrifice fly to left that scored Romeo and won the game. The fans went wild--all two of them.

Unfortunately for Team W&M, the victory over the Hoyas proved to be the highlight of the weekend. Forced to play its next game at 7:45 Sunday morning, it became readily apparent that something was missing from Team W&M. As the opponent warmed up, Team W&M refused to leave their warm cars until the last possible moment. Reluctantly, Team W&M took the field. But something was still missing--it seemed that Sean "Mr. Reliable" McMullen had decided to sleep in. His absence was a precursor of the game's outcome--Case Western 18, W&M 2. OUCH. By the way, when Mr. Reliable showed up in the third inning he was warmly greeted by his friends from W&M and his new friends from Case Western.

Team W&M went on to back to back victories against B.U., 18-3, and Vanderbilt, 17-5 before bowing out of the tournament by losing to UVA Blue 15-7. After playing four games before noon on Sunday, elimination was not disappointing, in fact it was a relief-we could all go back to bed.

Overall, the tournament was enjoyable, both for the softball and the socializing that went with it. As expressed by Case Westerns' first baseman, "I hope you got a little something" out of the tournament. Everyone from Team W&M did get something out of the tournament--some more than the others--eh, Sean?

Llamarama

continued

entire Llama movement, Governor Wilder even autographed Mike's small bat. Other celebrities in attendance included Jose Conseco (he's a baseball player) and Hank Aaron (unconfirmed).

The game was unfortunately called for rain and the Llamas moved on to Potter's Pub in Richmond, a wonderful little bar where they are no longer welcome (ah well, c'est la vie). This constituted the second phase of the journey which is not open for public dissemination. Suffice it to say that next year's Llamas may want to head back to Baltimore where we belong. In the words of Llama extraordinaire David Street, "They understand us in Baltimore."

The second phase of the trip did, however, lock up the title of Queen Llama 1991 for second-year Vanessa Griffith. Kudos to the new Queen for a stellar evening of Llama merriment. The ride home saw the crowning by unanimous acclimation (M.L. decided) of Mr. John Anton as King Llama 1991. They share all the privileges and responsibilities of the office in perpetuity, etc. etc.

Yes, the Llama trip, though different, was a success. What is a Llama you ask? Find out next year. But in the meantime take solace in the knowledge that Llama is what you think of yourself. And remember, in the sage words of George "King of the Thing" Leedom, "It wasn't the fans, players, managers or the media that were hurt by the strike-it was the Llamas." We miss you Baltimore.

Howard Jacobs (3L) races against parked cars in the 11th annual Ambulance Chase sponsored in part by Phi Delta Phi. The event brought $275 for the Williamsburg Rescue Squad.