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Crisis? What Crisis?

The Tort Reform Issue

BY STEVE MULROY

The media are full of discussion on the current “insurance crisis.” Insurance rates have skyrocketed, as much as 100% in some areas. Some municipalities have eliminated recreational facilities or canceled construction projects, citing the unavailability or prohibitive cost of liability insurance.

Doctors claim that malpractice insurance rates are driving them from business, reducing competition, and increasing health costs. Federal and state governments are arguing about compensation levels, and the likely result will be some sort of “tort reform.”

Tort reform at the state level has been endorsed by President Reagan.

Litigation-Happy America

Insurance industry representatives blame the crisis on a legal system gone litigation-happy. They claim that frivolous lawsuits, expert witness stipend awards, and a general nationwide tendency to sue are to blame, which has forced insurance companies to pay out more in liability claims, and consequently raise rates.

An Insurance Information Institute pamphlet asserts that one civil suit from business, reducing competition, and consequently raising interest rates. Insurance Information Institute, Lawyer For Texaco, and the Federal government are advocating for tort reform measures, and the likely result will be some sort of “tort reform.”

Lawyer For Texaco, CBS

Litigator Recounts Experiences

BY CHI LEWIS AND KIMBERLIE YOUNG

Litigator David Boies, partner with the Wall Street firm of Cravath, Swaine & Moore and well-known as the attorney who successfully defended CBS against General Westmoreland’s libel suit, spoke at length about his recent involvement in the Texaco/Pennzoil suit. He addressed a large law school audience last Friday.

Introduced by Dean Timothy Sullivan and in turn by College President Paul Verkuil, a longtime friend who worked with the speaker at Cravath, Swaine & Moore, Boies spoke at length about his recent involvement in the Texaco/Pennzoil suit. He addressed a large law school audience last Friday.

David Boies, of the New York firm of Cravath, Swaine & Moore, spoke about his experiences as a litigator during his recent visit to M-W.

Mark Rudy
The Advocate

Marshall-Wythe School of Law

A student-edited newspaper, founded in 1963 as successor to the Amicus Curiae, serving the students, faculty and staff of the Marshall-Wythe School of Law.

Thursday, November 13, 1986

Guest Columnist:

Don't Let Corr Rest

By Drew Firanek

In January of the last school year, I encountered Professor John "Bennie" Corr walking with an increasing number of students in the law school parking lot. They were engaged in a deep conversation and I could tell that Professor Corr's words of encouragement were comforting that student in her obvious distress. Suddenly, I watched that law student muster the kind of smile that signifies that all was well and her attitude was "perspective" and I watched Professor Corr put his arm around her shoulder and walk away. At that point I was curious about the faculty at Marshall-Wythe and about the law school in general.

Less than a week later, I received the incredible news that a tenured professor was beastsd to deny tenure to Professor Corr. Like most other students, parents, and faculty, the news came as a shock. In the spirit of the time, I rushed to see what could be done and began to look for a "perspective" and I watched Professor Corr put his arm around her shoulder and walk away. At that point I was curious about the faculty at Marshall-Wythe and about the law school in general.

The College’s drug-testing program has been met with a wide range of reactions. As far as perception is concerned, the reader should be aware that the College’s decision is not a new one. In the past, several other colleges have implemented similar programs. The second problem with the College’s decision is that it only concerns athletes. If drugs are truly a serious social problem affecting the fabric of America, then the entire student population should be tested, as should potential lawyers prior to taking the bar exam. The argument might be made that athletes occupy a special role as ambassadors of the school. As such, it is essential that these ambassadors convey a clean image of the College and its student population. If this is the rationale for the drug-testing decision, then the entire program (and possibly the entire anti-drug crusade) is one of perception and not substance.

The second problem with this program is that President Verkuil and his staff were not exercising independent judgment. Prior to the announcement of the testing program, there had been no drug problem in the ranks of W&M’s athletics. Of course, good administrators should not have to wait for problems to start before taking action. Anticipatory actions are invariably superior to reactive ones (as a rule of prevention, etc.). The College’s decision, though, is essentially a reaction: not a well-reasoned decision based on the realities and expectations of W&M, but based on nationwide hysteria in the wake of Len Bias’ death and Nancy Reagan’s drug crusade.

As far as perception is concerned, the reader should hear in mind that the most abused drug in the U.S.A. is not marijuana or cocaine or crack, but valium, that handy keystone for coping in middle America.

The College’s drug-testing program is selective and unnecessary. It is a symptom of the nationwide hysteria, rather than a specific response aimed at a real problem in the college community. If we as law students do not oppose this program, we may be next. Pass the cups.

Letter To
The Editors

Handicapped Parking

Editor:

This is far warning to all the flabby slobs who are too lazy to walk the extra steps it might take to avoid parking in the handicapped spaces. I’m going to smash your tires. If you want to park there, let me know, I’ll bump your Knee cup.

Damian Horne
Boaz Explains Libertarian Philosophy

BY CHERI LEWIS

Vice President of the CatO Institute, Boaz addressed an audience in a discussion sponsored by the Faculty Society last Thursday evening. Boaz, who served as Research Director for the campaign of Ed Clark, a controversial Libertarian Party candidate in 1990, and who recently edited Left, Right and Baby-Beard's, spoke primarily about the history of the libertarian movement and the contemporary libertarianism.

Boaz stated that libertarians, like many other liberals, seek to challenge the big-government establishment. Libertarianism, which views the will of the individual as superior to that of the state, "seeks to extend natural rights, by recognizing both economic and civil liberties and protecting them from the depredations of governments."

According to Boaz, classical libertarians recognized that the market is dynamic, creative, voluntary process and that the government is virtually always static, coercive, disruptive, and backward-looking.

Boaz also discussed several important issues which concern libertarians today. Free trade, Boaz said, is "the worst enemy of liberty. Libertarians have won the intellectual battle very clearly." Boaz also discussed the goals of privatization of the social security system, the implementation of a non-intervention foreign policy, and educational choice options. The latter issue involves education tax credits or vouchers which would allow parents to choose between public and private schools.

Cojones

By Damian Horne

I didn't like last week's Advocate. Yet another exceedingly banal piece of Cabral, the second published stupidity of Steve Frazier, and an expose of a 1st year's communal fraternal with the Evil Empire initiated the journalistic assault. This treat was followed by five full paragraphs touting the impersonations of Baby Bear by some professor's progeny, a letter announcing the formation of Law Students Involved in the Community (excuse me?), and finally, a rather homosexual photograph of five titled 3rd years foisting six-for-a-quarter cigars in the hopes of improving their Fall From Grace dates.

Great Stuff.

Marshall-Wythe has more important concerns...Like why doesn't the women's bathroom have any graffiti? Yeah, I've been in the women's restroom. Last spring, before my UCC final. Any distraction will suffice when it is 2:30 in the morning and you've been agonizing over a subject as complex as molecular genetics and as exciting as a Great Dane's tests. Can you imagine my disappointment when I discovered bare walls throughout? Nothing but a reference to a guy's butt, and that was probably written by an undergraduate male. This is all in grave contrast to the original novels written in the male restrooms. The walls are a political forum that occasion great verbal violence, as well as provide an appropriate reference for some bizarre opinions on one's peers, Dean Sullivan, the innately, Chuck Calburn's headgear, people who pick their nose in class, the female population as a whole, under-graduates, ducks, select parts of the human anatomy, and a wide assortment of personalities and creatures usually noted for their activities while in a state of more or less frenzied riot.

Nothing of this nature is to be found in the women's restroom. With all the spitting-off they do in class, not one of them has ever written the "F" word in a bathroom stall, or speculated upon the sexual preferences of their least favorite professor. Not once has one of them muttered enough social conscience, enough I've-got-the-vote spleen to manifest a sentiment, any sentiment, preferably in obscene invective, above the toilet paper dispenser. Not once.

This fact has led me in two inescapable conclusions: 1) It is definitely cave-MEN who drew all those pictures in early Neolithic caverns. 2) Women come to law school to get married; after all, if they're not writing on the walls, then they must be promiping. And why would they be promiping? So they can brave law school with some poor slob who will squeeze out his never has to spend her days in the Norfolk Bar Association Library. It is all very obvious. The handwriting, as it were, is on the wall.

Your friendly neighborhood brief receivers, Shari Hughes and Latane Ware, pause a moment before the annual four o'clock rush. This year's App Ad deadline was celebrated in the traditional fashion, in which second years arriving close to the deadline were forced to run a gauntlet of cheering students to hand in their briefs.

Homecoming Party

HOMECOMING PARTY (FREE): The Alumni Association and the SFA are sponsoring a party for students and faculty to meet and renew acquaintances and enjoy Saturday evening at 8:30 in the Little Theater in the basement of the Campus Center.

Wayneburg

By Wayne Melnick

Thank God that closed memo's finally turned in.
Now maybe my life can get back to normal.

Wayneburg
Lounge League Stands At All-Star Break

BY EAME ROBBY

You’ve undoubtedly seen them, either in their own acts or in the student lounge. Grown men playing a board game known as Lounge Baseball, the perfect winter sport for armchair coaches. Basically, each of the eight teams is composed of two of the all-time greatest teams ever, with accurate statistics covering everything from batting averages to injuries, to bunting ability. Presently at the All-Star Break, Marshall-Wythe’s fall season is in full swing and no clear favorite has yet emerged. Wayne Melrick’s Brooklyn Red Sox and Ed Edmonds’ Philadelphia Braves are the current front runners with identical 9-5 records. Sentiment around the league is that the pennant is Edmonds’ to lose, in light of the fact that he has taken over the same squad that Tom Cook guided to two consecutive pennants. Cook is presently one game back of the leaders at 8-6 with the Pittsburgh Cubs.

The tandem coaching of Pete Condron and Neal Cabral has led the New York Brown to their present fourth place position at an even 7-7. Coaching what is commonly believed to be the best overall team in the league, Condron and Cabral were once considered good bets to take the pennant until they began to coach. Among the also-rans is the Doug Klein/Dave Barney squad, the Philadelphia White Sox. According to Klein, he deserves most of the credit for turning a 1-3 outfit into a monument of mediocrity (2-7). According to Tom Cook, the Sox wouldn’t be where they are if it weren’t for the intervention of Yaweh. Barney would not be reached for comment.

Meanwhile, Melnick and Edmonds can relax, at least for the duration of the break, and try to plot a second half strategy that will bring them the pennant. Each team has 14 games remaining, two with each league member. No teams are yet out of the picture, as evidenced by the standings:

<table>
<thead>
<tr>
<th>TEAM</th>
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<tr>
<td>Brooklyn Red Sox (Melnick)</td>
<td>9</td>
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<tr>
<td>Philadelphia Braves (Edmonds)</td>
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<td>Pittsburgh Cubs (Cook)</td>
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<td>7</td>
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<tr>
<td>N.Y. Browns (Condron/Cabral)</td>
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<td>Phila. White Sox (Barney/Klein)</td>
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<td>St. Louis Senators (Richardson)</td>
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<td>8</td>
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<tr>
<td>N.Y. Reds (Scott)</td>
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<td>10</td>
<td>10</td>
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<tr>
<td>Cleveland Tigers (Fowler)</td>
<td>3</td>
<td>11</td>
<td>11</td>
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This week’s picture of Neal Cabral.

Gridders Take the Field

The William and Mary intramural football season got underway last week with six teams representing Marshall-Wythe. Although some fine athletes are involved, it is unlikely that the law school will repeat its softball coup and bring home another Academic League trophy.

Already one of these teams has been dropped from the league. The Crippled Suries, once the “dream team” of the pre-season, is no more. Jeff Brooks, Mark Broadwell and other “Suries” started off poorly by losing their opener 37-0.

Things got worse the next week as they forfeited their way out of the league. The Crippled Suries lived up to their name but not their dream.

The first years field the Paul Varelas, who are currently 1-1 despite their name sake’s performance. In their first game, the Varelas blew a 7-0 lead after Paul, who played 44-inch chest, was ejected for a second game for assaulting one of the opponents. The team rebounded with a forfeit victory in the second game. Other members include Marc Taylor, speedster Glenn Moore, and Louise Lazzaro, who predicts a victory in the showdown next week with the Frurient Interests.

The Frurient Interests are back on the field and have a more competitive squad then their 1-2 record suggests. Tom Kohler, John Short, Dave Cozad, and Bill Power are among the returning veterans who have wreaked havoc on defensive secondaries with help from rookie sensation Gene Nichol. Nichol passed for 348 yards in the Interests’ second losing effort but was forced to miss games due to disciplinary action. Lineeman Mark Kallenback was ejected from game two when he adamantly protested a questionable call by a suspect official. This outburst cost the Interests precious field position and the team’s future success may well depend on the maturing of these two players.

Both the Rippers and Air Corrally are back in action with their talented squads, but they are divulging nothing regarding their talent. Both teams have held closed practice sessions and refuse to talk about changes occurring in their camps. Could they have developed something as innovative to football as Australia’s winged keel was to sailing? Perhaps they winged receiver? One can only wait and see.

Things turned from good to bad for the Neglected Prunes as they won, tied, and then lost in three games last week. In the first game, a 16-6 win over YERBGN, the Prunes unraveled their vaunted passing attack with quarterback Parker Bruberg hugging scoring strikes to Jeff Costakos and Jon Bill and throwing a game-saving kneuckleball to Damian Horne.

Players-of-the-game honors went to defensive standout Jack Dougerty who made a spectacular interception in the closing seconds to stop a YERBGN scoring threat.

In their second game, the Prunes, though outnumbered seven to six, still forced a 12-12 tie, with the fleet-footed Bruberg running for one touchdown and throwing to Costakos for another. By the third game, however, the Prunes began to stew as they stunk up the field in a 30-0 laugher. MVP honors for the game went to Steve Buck who won the coin toss with a surprise “tails” call.

The law school’s greatest chance at bringing home a championship rests with the women’s team. Last year’s Learned Hands (second place) and Class Action (third place) have merged into one team. Roasting the talents of Pat Miller, Marie Duensing, Donna Larsen, Leigh Ann Holt, and many more, Learned Glass is 2-1 and should be tough to beat.

Tort Reform

Continued from Page One

from premiums, but not from investments. Thus, even taking into account the economic analysis outlined above, the industry has in some cases raised rates even beyond what was required, without the knowledge of state regulators.

Despite their protests, LeBel thinks it likely that the legislature will place a cap on jury verdicts for “intangible losses”—pain and suffering, and the like. A recent federal court ruling, however, places such a law in a questionable position. A Virginia statute capping malpractice awards was recently held to be unconstitutional on equal protection and right-to-jury-trial grounds. The first ground, that singling out malpractice plaintiffs constitutes unreasonable discrimination, is stronger and would probably have no effect on the “intangible losses” cap, in LeBel’s opinion. If a future court relies on the second ground, that arbitrarily capping jury awards denies plaintiffs their right to a trial by jury, such a cap could be in trouble. LeBel opposes such a cap, and any other “piece by piece” reform of the Virginia tort system.