Moot Court Trio Sweeps Nationals
Best Brief and Best Oralist Awards Complete Team's Moot Court Hat Trick
by Cheri Lewis

In a first-ever victory for Marshall-Wythe, the National Moot Court team of Elizabeth Deininger, Joe Gerbasi, and Michael McAuliffe captured the first place, Best Brief and Best Oralist awards at the 9th Annual National Moot Court Competition held last weekend in New York City. The team, which won the Region 4 competition in Richmond last November, advanced through six rounds and competed with 28 other teams to win the top-place award Thursday night before a panel of nine judges.

One hundred fifty law schools participated in the tournament, the oldest and most prestigious of moot court competitions, which is sponsored annually by the Association of the Bar of the City of New York and the American College of Trial Lawyers. This year's case problem concerned whether the exercise of peremptory challenges to exclude women from jury selection violates the Fourteenth and Sixth Amendments.

Gerbasi, who won Best Oralist at the Regional Competition last November, garnered that prize again last week, bringing home two pieces of the team's trophy collection. He characterized the judges for the competition as "tough," and recounted that "they interrupted each other to ask us questions." Gerbasi added that, at one point during the final round argument, "I had a backlog of three questions."

McAuliffe, as the "long" member of the team, was charged with arguing the petitioner side of the case with Deininger and, in turn, as using the respondent side with Deininger. Although the assignments for each round of the competition last week were decided by a coin toss, the team argued the petitioner side of the case three times, and the respondent side three times.

Dean Sullivan commends the National Moot Court team for their recent win and compliments them for "finding an even uglier lamp than the original one." The Appellate Advocacy class, a veritable throng of future oral advocates, demonstrated the strength of all three of the team's oral advocates.

In the final round argument Thursday evening, the team argued against the University of Kentucky team whom they had defeated in the Final Round of the Regional Competition. The nine-member panel of judges for the final argument included James L. Oakes, Chief Judge of the U.S. Court of Appeals for the Second Circuit; Levin H. Campbell, Chief Judge of the U.S. Court of Appeals for the Second Circuit and Leonard I. Garth of the Third Circuit Court of Appeals.

The Difference
"We became the team to beat," commented McAuliffe on the sense of competition at

Library Closing Changes Hotly Opposed
by Steve Minter

An administrative proposal to end after-hours use of the law school library came under attack from students at Tuesday night's Student Bar Association meeting. After Executive Council members sharply criticized the plan to close the building at night, Dean Galloway promised to work with a student committee to explore alternative policies.

The draft proposal presented by Galloway and Library Director Jim Fuller would hire a security guard to enter the law school each night one hour before closing. The building would be closed at 12:00 on weeknights and 11:00 on weekends.

Citing administrative concern and responsibility for the "personal safety of students and the security of the building and its contents," Galloway and Fuller, who appeared at the meeting, expressed anxiety about recurring campus police reports that exterior doors to the law school were propped open late at night. "I'm worried about the easy access of people who are not authorized to be in the building," Galloway said. "We shouldn't wait to act until something happens."

Students said, however, that late night use of the library was critical for studying, accessing Lexis and Westlaw word processing, and "being research. "When everyone is doing the same assignment, it's tough to get access to the computers and the repositers, second-year representative Matilda Brown explained. "Sometimes you can only get them late at night."

Heller suggested that if students knew the library would be closed, they'd learn to work around it. John Fendig pointed out, however, that Heller occasionally works at 4:00 in the morning and 'ought to appreciate the need for late night access.'

One alternative proposal by students was a public awareness program to educate students to the hazards created by leaving exterior doors open. Students also suggest a method of access to the law school that would eliminate the need to prop doors to gain entrance to the building.

One suggestion was the installation of a security keypad system. Others proposed that the security guard be hired to monitor the lobby all night and check student IDs for those entering and leaving the building.

Galloway promised to consider the student proposals before deciding on final action.

SBA President Jeff Lowe summed up student sentiment saying, "There's a lot of student interest in keeping the library open 24 hours a day -- or damn close to it!"

In other SBA business, Judicial Council member Bill VanDeWeghe expressed concern over an SBA-initiated petition seeking student support for proposed amendments to the Honor Code. He was dismayed that the Judicial Council had not been consulted in the drafting of the documents.

VanDeWeghe charged that the petitions were "poorly worded," saying that they were not apt to inspire cooperation from the Dean. He also criticized the action as hasty and creating confusion among students from the lack of precision in language.

The Executive Council agreed to work more closely with Judicial Council members and to rewrite the petitions. Lowe appointed Steve Mulroy to work with a committee of the Judicial Council in redrafting the documents. "There's no need to act immediately," VanDeWeghe said. "We should proceed in a careful and logical manner."

The petitions recommend amendments to the Honor Code that would eliminate the Dean's power to raise penalties imposed by the Council. Alternatively, the petitions would require the Dean to notify the public when he exercises his review power.

The controversy was sparked by the recent expulsion of a Marshall-Wythe student for plagiarism.
Due to last minute changes in team participants and an alleged discrepancy over membership requirements, the BLA's Moot Court Team (BLSA) will not send a team to the national BLA moot court tournament this weekend. Two leaders have suggested that race was a factor in their disqualification.

Two of the students originally chosen for the team withdrew from the team the day before the team was due to compete. Chris Heimann and Scott Ollar offered to help Brian Telfair, the remaining team member, write a brief. But Heimann and Ollar were told by BLSA that it would be unacceptable for them to help in the competition solely for the purpose of competing in the tournament.

There are allegations, however, that last year a black woman was allowed to compete on the BLSA moot court team although she did not pay membership dues until the brief had been written and filed. Heimann and Ollar, who are both white, suspect that race was an underlying factor in BLSA's decision not to let them compete. They also stated that they were more acceptable because she was black.

**BLSA Denial**

BLSA denies these charges. Louis Cunningham, who led the BLSA Moot Court team last year, said that the individual in question was a dues-paying member of BLSA at the time she joined the team.

Commenting on why Heimann and Ollar were not invited to join BLSA so they could participate, Bryan Sugg, the current president of BLSA, said, "If they came in to BLSA at the last minute it would seem that they didn't in it for the goals of ILSA, but just to argue in the national moot court competition." Sugg also said that the rules for the Frederick Douglass Moot Court Competition held this weekend at the national BLSA conference in Philadelphia state that all participants must be members in good standing. Sugg said "BLSA membership is open to all law students. Not all law students belong to BLSA either." About 22 of the 38 Black students at Marshall-Wythe have paid dues to become BLSA members. Heimann and Ollar have a different view. When Telfair approached them, he had completed his work on the team brief and wanted badly for there to be a moot court team. Heimann and Ollar said "He [Brian] had done everything for his moot court brief up to that point. Brian is a friend of ours. We felt Heimann and Ollar's obligation to send a team," Heimann said.

Heimann said another motivation for Sugg and Ollar's attempted participation was "to make sure the school doesn't look stupid because BLSA withdrawing under questionable circumstances." In addition, they said they would also broaden their law school experience by being on this moot court team.

Heimann and Ollar both state that they rejected the implication that they were being opportunistic by offering to help BLSA solely to participate in the organization's moot court tournament. In their view, they were offering to help their friend, the school, and BLSA out of a tight jam, they said.

"They also state that they disagreed with BLSA's assessment of their chances to prepare a quality brief in 24 hours. 'It was a relatively easy issue to deal with,'" said Cunningham, who was present at the meeting. "It was a farce to even try that. My personal feeling was, that it just couldn't be done," added Cunningham, who said he had taken him the entire winter vacation to prepare his brief for the BLSA team that competed last year.

"They didn't give us a chance," said Heimann, who said that Heimann and Ollar willing to let BLSA inspect their finished brief before submission, to ensure that the work complied with what the school's Briefs Committee didn't think that [the concern about the quality of an overnight brief] was a reason. "It's a good rationalization.

Heimann and Ollar said that in the fall, when they first expressed an interest in joining BLSA for the purpose of being on the BLA moot court team, they encountered some resistance to the idea from an unnamed individual in BLSA. They did not identify who the individual is or elaborate on what kind of resistance they encountered."

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Corry Trial Continued

by Gerry Gray

The trial of former Marshall-Wythe assistant professor William Corr, which had been postponed due to a scheduling conflict for the presiding judge, was continued to March 15-25. The jury trial was originally set for January 23, but was postponed due to a scheduling conflict for the presiding judge.

The case involves Corr's claim that he improperly denied tenure to various professors, including Glenn Coven, who is named as the defendant in the trial. Corr originally alleged $450,000 in damages for breach of contract, defamation, and deprivation of constitutional rights. The breach of contract claim was dismissed summarily on November 22, 1988, by state Judge Randall G. Johnson and a jury will decide whether Corr is entitled to the $150,000 punitive and $150,000 compensatory damages he is claiming for deprivation of his constitutional rights.

The remaining claim of a violation of constitutional rights stems from a faculty meeting where the qualifications of former professor Gene Nichol were discussed. According to Corr's complaint, he stated that widespread rumors of Nichol's inappropriate sexual activities with students should be investigated, as should reports that Nichol repeatedly appeared drunk and unable to teach properly. Corr's complaint states that Coven responded to Corr's statements by threatening to falsify Corr's tenure application, and that later Dean Sullivan joined in Coven's efforts to deny Corr tenure.

The defendants' counsel made three arguments in favor of dismissing this claim, all denied in Judge Johnson's written opinion. The defense first claimed that Corr's statements at a faculty meeting were not protected free speech because they were based on rumors from students.

Moot Court

Continued from Page One

the Nationals. "A lot of people were exposed to William and Mary, but I didn't know what to expect," When asked what he believed made the difference between Marshall-Wythe and the other teams, McAuliffe said, "Attitude." Gerbsaid, "When you go into a pool of competition, motivation makes all the difference. It's all in how much you can psyche yourself up."

Strategy also distinguished the team. "We framed our approach to the tournament in a very special way," said McAuliffe. All three team members agreed that their briefs were superior. "The scores were calculated with the oral score in the first two rounds, was also a major factor in their success. Gerbsaid, "The team was very prepared by the practice arguments they had undergone during the weeks prior to leaving for New York, but thought that the decisive factor was the team's water intake. "We drank more water than any other team," she explained. "They had a great water strategy in the competition," added Gerbs.

School Support

"This is just an external confirmation of what we've already known about this school," declared Dean Timothy Sullivan, commenting on the team's victory and demanding competition in the country. He added, "For the three who have demonstrated that they are the best, they deserve all the congratulations we can give them."

Deininger, McAuliffe, and Gerbsaid each contended that they appreciated the support they received from the law school community during the competition. "We were very surprised and pleased that everyone made this a school-wide event," McAuliffe said. Deininger expressed surprise that they won up there, and the other teams had entourages and coaches with them...but it was nice to know we could back them up," she said. Gerbsaid's parents, her sister, some friends of McAuliffe's, and Mary Wooten, 3L, were among those who came to see her argu...
INTER ALIA

Holiday Tidings

The ground hog Holiday Season is a most festive occasion in this area is noted by "You Ain't Seen Nothing But a Ground Hog." Before ascending to his throne in the lounge, the monument to tachiness was laid in state among the treasures bequeathed by Professor Michael McAuliffe, Joe Gerbasi, and the Tennessee native Elizabeth Delinger -- Triple Crown champions at the National Moot Court finals. In addition to winning the tournament, the team won the Best Brief award, and Gerbasi was judged the Best Oralist. The Advocate extends its congratulations to Michael, Joe, and Elizabeth. The King travels in good company.

The ground hog, this North American Marmot, is noted for its ability to create a labyrinth of unintelligible, seemingly useless underground corridors. It is ever so appropriate that the school chose this holiday season to make a bid for the Administration Law Review. If successful, the Review would be relocated to Marshall-Wythe, the giving the school a second Law Review and adding more luster to its already bustling coat. This is a battle being fought on Marshall-Wythe on this Ground Hog Day, and the forecast calls for an early Spring thanks to the work of dedicated faculty and students.

On Monday, February 13, the doors of Marshall-Wythe will be closed because 300 years ago King William and Queen Mary first peered out from the throne of England. Anyone respecting this College holiday has no right to question the appropriateness of a Ground Hog eulogy. ~ G.G.

Dark Star?

Last fall, Dean Sullivan introduced a "rising star among law librarians" that he said would better meet the needs of Marshall-Wythe students. Since then, students have witnessed a disregard for their needs as well as numerous changes in library policy that were implemented either without the benefit of student input, or with blatant disregard for their concerns. This week two more proposed changes became public as the administration announced new limited library hours and unveiled plans for a remodeled library that would reduce study and lounge space and turn the "student areas" into a dismal hodge-podge of partitions and cubicles.

The draft proposal calls for a campus security guard to patrol the law school every evening and clear the building by 1:30 on weekends by 3:00 on weekends. One justification for the change is the security of the library's contents, but the librarian offered nothing more than vague allegations that students were walking out with books after hours.

At the same time, faculty members literally "cart" books through the second floor door of the library. Librarians reported that efforts to update copu records have generated "pages of book titles" checked out to professors that they can no longer locate. One student reported seeing an extensive collection of real-time data on professors' homes.

The library plans to reward the faculty by giving them their own faculty collection instead of teaching them to share like everyone else. Bet you can guess where professors will go when their colleagues have already checked out the faculty copy of a U.S. Reports they want.

Additionally, as long as there is no book security system in the library, students are able to stop local practitioners or undergraduates from roving books during regular library hours. So why doesn't the library address these problems instead of making law students the scapegoats?

Possible alternatives to closing the building include installing a key-card system or employing an all-night security guard. Strong student criticism of the plan at this week's SBA meeting motivated the administration to work with a student committee.

Plans for renovations of the library were also revealed this week. In addition to doing away with at least 30 student study spaces, the blueprints call for eliminating all the cushioned lounge furniture from the reading areas throughout the library.

Meanwhile, the library staff will appropriate the view of the geni for itself by installing offices along the entire back wall of the building and inserting partitions and barriers throughout the library.

In addition to monopolizing all the natural light on the main floor, the remodeling would destroy the openness and warmth created by the original architecture of the building and provide the Library Director and his secretary with offices roughly 15 feet by 19 feet. The plans are, at best, aesthetically displeasing, and at worst, an obvious disregard for the needs of the library's most important patrons -- the law students who study there.

Providing better-lighted computer facilities is applaudable, but that plan makes that addition at the expense of more study space. The proposed expansion of the Bill of Rights Institute and the faculty workroom will further encroach on students.

Granted, some of these renovations may be needed, but such drastic changes create trade-offs and disadvantages that will affect students as well as the librarians. Even the students who serve on the Library Committee were not consulted on the renovation proposals. Decisions as important as these should include student input right from the start. Soliciting student suggestions might also result in corrective measures to existing problems like a water fountain that hasn't worked in months and faulty carpeting that won't stay stuck.

This paper has repeatedly advocated more student involvement in administrative decisions, and the disregard for student input is no better exemplified than in the law school library. It appears that students are being nudged out for other priorities. Will the last student to leave the library please pass the Juicial Council's decision and raise the question. No much for the notion of a trial by a jury of one's peers. We applaud the newspaper's "A Matter of Honor," which called for a more open, accountable student-run honor system.

Our concern, however, is with the newspaper's reporting of the incident itself, the processes of the Judicial Council and the outcome of the trial. The Advocate is not

Letters to the Editor

Fuchs, Craig Criticize "Rubber Stamp" Advocate

Dear Editor:

Like many students, we were both dismayed and curious at reading the recently-posted notice that a student had been expelled for violating "The Honor Code." Unfortunately, the Jan. 19 story in The Advocate left us just as dismayed -- and even more curious. The story and accompanying editorial raised an important issue concerning our "student-run Honor System." Is Dean's ability to complete pass the Judicial Council's decision and raise the question. No much for the notion of a trial by a jury of one's peers. We applaud the newspaper's "A Matter of Honor," which called for a more open, accountable student-run honor system.

Our concern, however, is with the newspaper's reporting of the incident itself, the processes of the Judicial Council and the outcome of the trial. The Advocate is not

an arm of the Judicial Council or the administration. Lik., any newspaper, it has the right to question and scrutinize the decision-makers and those in power. Yet by accepting the council's view as fact, the entire piece, the Advocate is virtually rubber-stamped the entire procedure.

Moreover, by taking all of its information from Judicial Council representatives and the Dean, the newspaper failed to present both sides of the story in what is essentially, or should be, an adversarial proceeding. The newspaper should have contacted the expelled student and student council president very least, given him or her the opportunity to offer his or her own version of what happened. (This response could have been given anonymously if the student so desired.) Perhaps that student thinks the entire incident was simply the charge to the Judicial Council's findings to the Dean's recommendation was completely unjust. He or she has the right to be heard. The students at Marshall-Wythe have a right to hear his or her side of the story and The Advocate should play the part of a responsible reporter to place this information before its readers.

We are told that The Advocate learned the student's identity but made an editorial decision not to contact the student on the assumption that he or she would decline comment, and that the request would be too intrusive. We believe this decision was unthinking and inherently unfair. How can the editorial staff assume that a student expelled from law school via a completely closed proceeding would not wish to respond?

We are also told that The Advocate contacted some Judicial Council members for continued on Page Six
The Advocate February 2, 1989

Faculty Forum Law As a Healing Art by Rod Smolla

For generations, law schools have proudly espoused that great propaganda line: ‘The purpose of law school is not to teach students the law, but to teach them to think like a lawyer.’” The line has always puzzled me somewhat, and prompted me to wonder, was it true? Was thinking like a lawyer opposed to thinking like a doctor? An engineer? An ordinary well-adjusted being? Are lawyers (and inchoate lawyers?) really think differently? And if we do think differently, should we be proud of it? What does the general public think of how we think? As a lawyer, I mean to learn how to think like a lawyer, as he or she observes the internal changes that take place in me as a lawyer. Is the transformation positive or negative?

All of us must come to grips with the problems that arise in our professional lives, and our feelings are likely to evolve over time. As someone who thinks that thinking like a lawyer can be among the most noble and socially constructive of all careers, and who cares about the practice of law, I don’t think that messages that law schools communicate to students about what it means to be a lawyer, is it useful to occasionally reflect on an aspect of lawyering that is too often neglected: the practice of law as a healing art.

Our legal system—indeed, our whole system of “due process,” is constructed on an adversarial model. And so, probably, it must be. Our law schools, and indeed, our entire tradition of legal education, is similarly constructed on a model of adversarial transactions. The practice of law is a business. Thinking like a lawyer is taught as thinking with analytic rigor, outside the box, and around and through doctrines and policies, constantly massaging and manipulating arguments. We are taught to be mentally and emotionally tough. We are schooled in intellectual combat, trained to be lean, mean litigating machines. This type of training is enormously useful, and law schools ought never abandon it. But conscientious law teachers, and great law schools, have always understood that the practice of “thinking like a lawyer,” if being a lawyer is to be something one is proud of.

Many of the great lawyers and judges and legal academicians I have known have managed to rise above a narrow view of adversarial world affairs. We are not to be blameworthy.

In an age of nuclear weapons, stinger and silkworm missiles, chemical and biological warfare, can’t we realize that it is not the Western world versus the rest of the world?

Even as relations wit the Soviet Union ride the swell of democratic reform and open communication, the breakdown of our ignorance continues to preserve the sands of manifest destiny. Deep down, we still believe in the two-worlds, and every other miserable third world communist, want: no more than that. Americans. Unfortunately, the Gorbachev revolution is feeding our ignorance, because now there is a new front. Think somebody in the Soviet Union knows what we have been trying to tell them all along: you can’t beat us, so you might as well get used to it. But you might as well get used to it. Burgers and fries.

Gorbachev no more wants the Soviet Union to become Americanized than George Bush wants to commemorate the Bolshevik Revolution with a government holiday. For all the talk of reforms in recent years, Soviet history has not changed. Russians and Americans and Armenians still have their own cultures and traditions, despite Pizza Hut and McDonalds. Those cultures have traveled capitalism and communism alike. To read too much into the recent political reforms in the Soviet Union is to sell the whole world short. The worst thing we can do is stumble into our new-found dialogue, thinking the arrogant notion that capitalism and communism are finally winning out. Ah, but ignorance is bliss, at least for the moment.

To say that we Americans see the first time the guilty of ignorance and suppression of alien culture is not totally fair. Ethnocentrism is a root principle. The Romans persecuted Christians throughout the world, and the British left deep political scars in India and elsewhere throughout their empire. How does the word “empire” strike you tonight as we get used to it.

Continued on Page Seven

Rightly Speaking Roe Overturned by Gerard Tooney

Last week, pro-abortion forces launched a bitter drive to the Attorney General’s office, beseeching him not to sign the 1973 Supreme Court decision legalizing abortion, Roe v. Wade, be overturned. It was done in light of the Supreme Court’s decision to hear a case arising from a Missouri lawsuit against the legalization of abortion.

Eleanor Sowal, former president of the National Organization for Women, admits that the likelihood Roe will be overturned is high, and that there will then be a battle for control of the issue.

To many, Roe v. Wade is the moral equivalent of the Dred Scott decision. Roe embodies the same lack of understanding and respect for human life that Chief Justice Taney’s decision spoke of in 1857. Amusingly enough, both decisions are poorly written and are devoid of any logical or moral argument.

To say that Roe v. Wade is a moral equivalent of the Dred Scott decision is not to mean thinking selfishly, cynically, narrowly, suddenly.

It can also mean thinking carefully, thoughtfully, reflectively, Humanly. Law can be a healing art.

The Missionary Rapist by Mike Flannery and Pat Allen

Native Americans felt it first: savages trampled under the boots of civilized man, their culture and tradition burned like a straw teepee. Native Africans felt it too:

"Ethnocentrism is the belief in the inherent superiority of one’s own group, over all other groups. The result is to view others in stereotypic terms of ‘us’ and ‘them’ and the manifestations are hate, suppression, oppression, and exploitation. Another word for ethnocentrism is ignorance. Ethnocentrism continues to be a driving force behind our government’s foreign policy decisions today. Americans are still by and large under the impression that we have a mission to make the world safe for democracy. However, how many of the Vietnamese will it take before we realize how flawed this approach is toward world affairs? Can we at least learn a lesson by the Soviet experience in Afghanistan? In an age of nuclear weapon, the silkworm missiles, chemical and biological warfare, can’t we realize that it is not the Western world versus the rest of the world?"

Even as relations with the Soviet Union ride the swell of democratic reform and open communication, the breakdown of our ignorance continues to preserve the sands of manifest destiny. Deep down, we still believe in the two-worlds, and every other miserable third world communist, want: no more than that. Americans. Unfortunately, the Gorbachev revolution is feeding our ignorance, because now there is a new front. Think somebody in the Soviet Union knows what we have been trying to tell them all along: you can’t beat us, so you might as well get used to it. But you might as well get used to it. Burgers and fries.

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Continued on Page Seven

Reason, does not really have the same chivalric appeal. There is a group of feminists, led by a writer named Maggie Gallagher, who are fighting precisely for this reason. They feel that abortion destroys possibilities. Back to the original argument. Certainly men are not constrained by regulations against rape; they don’t enforce, that destruction of human life is wrong. The next argument is a new one, for a pro-life stance as a way of saying to conservatives, ‘“Huh, you don’t practice what you preach.” This argument runs like this: pro-life people are only pro-life until the child is born. Then they gorge on what happens to the child. They will often cite the fact that the child is not a legal entity for capital punishment or don’t support welfare programs. First, the shocking thing about abortion is that it tacitly accepts the fact that a fetus is human life. Therefore, it’s a kind of expediency factor: ‘Well, they would grow up to be criminals anyway, or society cannot support more children.’ To say that you are pro-life is not, by any stretch of the imagination, to be pro-life. You would do so from being shot? The choice to violate the law was my own, and the unfortunate consequences of my killing the baby as a result was the result of my own moral equivalance. Simply because there will be unfortunate, consequences which will accompany over-turning the decision does not justify abortion.

The next argument that is often used is that men make the laws, but men have never been the children. “This is becoming less and less true.” The argument, has some truth to it, but the legalization of abortion has had some very interesting effects upon the relations of men and women.

In an earlier argument, if a man were to get to a woman pregnant he had a certain amount of right and duty to be around her; it was believed that marriage was taking care of your responsibility. This concept that men have a “right” rule, could produce disastrous consequences. However, the responsibilities that society expects a man to assume today are far less taxing. All one need do is pay the price of an abortion. Rightly Speaking.
Students Protest "New Library"

Dear Editor:

It was with great interest that we learned of the proposed library alterations presently under consideration by Prof. Heller and the faculty. While it is readily apparent that student input on the plan is not desired by the faculty, we feel that the concerns of the students should be raised.

As far as the presently available information goes, the "new library" will contain several significant alterations. The first floor is to become the faculty library. The faculty library will, we understand, be stocked with red-tagged reporters from the first floor (regional, federal and Supreme Court) as well as the duplicate law review volumes from the second floor. Presumably the state collection will be moved to the second floor, once the faculty holdings are moved. The present administrative offices on the second floor will probably be moved to the new home of the Institute for Bill of Rights Law. Prof. Heller, Rush, and their secretaries are to inhabit new offices on the first floor, along the windows at the rear of the building. These offices will extend from the new second floor area halfway into where the first row of desks are now.

The proposed alterations to the first floor will include the elimination of tables and carrels. This is not only difficult, but unnecessary. Wholesome alterations to the interior physical structure could be made. But this is not the case. It is merely the result of a cramped situation. The present student-accessible collection merely exacerbates the situation.

Furthermore, while we understand that the library is somewhat short of books, we feel that the library should at least attempt to find a popular reporter volume or a memo of some mass production. The students know that locating a particular book is difficult. Decreasing the size of the student-accessible collection merely exacerbates the situation.

In summary, the students believe that the new home of the Institute is a poor location for the library. The new and present library is not the best possible. The new library is not the best possible.

Sincerely,

[Signature]

The Advocate

Exam humor fails

To the Editor of the Advocate:

Professors frequently use amusing names or fact patterns on their final exams in order to lessen the stress on students during the test. Please believe that I, for one, appreciate the attempt to make me laugh during the longest three hours known to man. But professors may not be too far in their efforts at humor.

During final exams in December, one professor used a reorative label for a victim of Acquired Immune Deficiency Syndrome. The victim, in the fact pattern, was a man, was named "Homo."

Ignoring the fact that AIDS does not limit itself to homosexuals or to males, an epithet that children use on the playground does not entertain or amuse. It clicks in the craw. Tay Sachs disease and Sickel Cell Anemia are unique to certain ethnic and racial groups, yet to use well-known labels for those groups in an exam question would not be tolerated in an institution like this, even "just for a laugh.

I hope that I do not offend the students by my comments. I wish the students and faculty alike good fortune in the coming term.

Bruce McDonnell
Third Year

Finally, the location of the new office suite on the first floor will eliminate one of the few scenic views the students at Marshall-Wythe can enjoy. We sit in classrooms with no windows. The library should be as hospitable a place to work as possible, but it should be hospitable to the body library faculty and staff as well as those who work/study/learn in the library.

The need for safety improvement is recognized by the student and the faculty alike. The need for a faculty library is also understood, but such an area should not exist at the main collection. It should be supplemental to it.

Wholeword alterations to the interior physical structure could be made. But this is not the case. It is merely the result of a cramped situation. The present student-accessible collection merely exacerbates the situation.

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Sincerely,

[Signature]

The Advocate

"Rubber Stamp" Advocate

Continued from Page Four

The glue will contain several significant alterations. The first floor is to become the faculty library. The faculty library will, we understand, be stocked with red-tagged reporters from the first floor (regional, federal and Supreme Court) as well as the duplicate law review volumes from the second floor. Presumably the state collection will be moved to the second floor, once the faculty holdings are moved. The present administrative offices on the second floor will probably be moved to the new home of the Institute for Bill of Rights Law. Prof. Heller, Rush, and their secretaries are to inhabit new offices on the first floor, along the windows at the rear of the building. These offices will extend from the new second floor area halfway into where the first row of desks are now.

The proposed alterations to the first floor will include the elimination of tables and carrels. This is not only difficult, but unnecessary. Wholesome alterations to the interior physical structure could be made. But this is not the case. It is merely the result of a cramped situation. The present student-accessible collection merely exacerbates the situation.

Furthermore, while we understand that the library is somewhat short of books, we feel that the library should at least attempt to find a popular reporter volume or a memo of some mass production. The students know that locating a particular book is difficult. Decreasing the size of the student-accessible collection merely exacerbates the situation.

In summary, the students believe that the new home of the Institute is a poor location for the library. The new and present library is not the best possible. The new library is not the best possible.

Sincerely,

[Signature]

The Advocate

"Rubber Stamp" Advocate

Continued from Page Five

Next page: Exhibit Five

Youth: That is precisely the tradition we've inherited. We have even evolved a "Darwin meets Rambo" approach to world affairs. World events and international relations are complex. There are no simple solutions, especially where cultures, beliefs, and traditions clash. Conflict is inevitable. But unless we acknowledge the diversity of culture and realize that not everyone thinks like we do, the United States will suffer the fate of all empires. Even the mighty empire fell. Ah, but ignorance was bliss, at least for a thousand years.

Mike McAuliffe predicts six weeks of Winter.

Sincerely,

Michael Fuchs
Jeff Craig
Cheshire L'Anson

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On The Fence

The Advocate has just received an anonymous letter (which, because it is unsigned, we cannot identify) from a South African, in response to the first-year column by Mr. Flannary and Mr. Allen. I thought it necessary to point out that the intellectual and emotional zealots have forced "Marcus Aurelius" to submit his resignation.

The current line on South Africa is a hard one, and anyone questioning it finds himself in the unenviable and uncomfortable position of being labeled a "racist." Ironically, its name-callers are most often self-appointed "professors of charity." I wonder if one murdered one of our law professors, you wouldn't really mean it.

And if one murder resulted in the "blacks achieve their rights now and in accordance with the law," but they did not murder each other. South Africa's blacks are predominantly Zulus (who got there after the Afrikaners), but there are a number of smaller tribes in South Africa, and they are all fighting with each other as well as with Botha. Botha is caught between a rock and a hard place, because giving the franchise to the black majority would result in a mere split between black and white; the blacks not only do not have a consensus, but they are fragmented into factions who oppose each other with violence. Thus, giving the franchise to the black majority would result in chaos and bloodshed—only for whites, but for blacks, as well. In fact, consider the many funerals of black South Africans, which are adversely attended by killing white South African police. Many of those black South African dead were suspected collaborators with the white South African government, and they were killed by other blacks. The violence that erupts at these funerals is often black on black.

So, not only can Nelson Mandela, who adjoets and attempted violent overthrow of the South African government, not be analogized to Martin Luther King, Jr. (as Marcus Aurelius said in his unpublished letter), but the situation in South Africa cannot be analogized to the American South. There is, adironically, a country in Africa which almost can be. It is Burundi, and there are two races there—the Hutus and the Tutsis. One is a

Over the Hill

by John Field

An occasional column by John Field, whose sole distinction is that he's the oldest man in this year's graduating class.

When I was in college, long before I entered law school, I did mean to—"I got into a friendly private argument with one of my professors over capital punishment. I told him I was opposed to it. He asked me whether I would feel the same if someone murdered my wife and children. I told him that executing the murderer would not bring back my family, and I insisted that my opposition was legitimate. He replied, "You can't be serious. You don't really mean that, do you?"

Last year I heard that one of our law professors, after listening in class to the arguments of a liberal politician, commented, "You really believe that crock, do you?"

More recently a visiting law professor, also an avowed liberal, recounted how he had once served on a federal fact-finding commission dominated by conservatives. On one occasion, after this professor had vigorously argued his liberal convictions, another member of the commission approached him in private and said, "You weren't really serious about any of this, were you? You couldn't be!"

But, now, you may have detected a pattern here. It seems to me worthwhile to once notice because a period of twenty years elapsed between the first and second incidents. What does it mean? Perhaps nothing. Perhaps it's not a pattern at all, merely three isolated incidents. Or perhaps it means, at the least, that many conservatives are not willing to respect the sincerity of those with more liberal opinions. If so, I cannot imagine why not. I certainly respect the sincerity of conservatives, even when I regard them as hopelessly wrong-headed. In the sixties I heard Governor Ross Barnett of Georgia deliver an address at my northern college decrying the "mongrelization" of the races, i.e., miscegenation. I never for a moment doubted the sincerity of his loathsome beliefs.

Or perhaps this pattern reveals a more profound quality—a certain pervasive intolerance that liberals quite properly continue to associate with conservatives even now, long after American conservatism has abandoned college age, however, their doctrines that characterized it in times past.

To be liberal, in its most proper sense, is to be liberal from the biases and predispositions that any society tends to impose on its members. After seriously considering alternative approaches, the liberal mind is free to reject the values of his own society from a more informed, more balanced and more tolerant perspective. The conservative mind, by contrast, prefers the warmth and comfort of conformity to his society's familiar views and may resist any consideration of the alternatives.

Liberalism is the mind that is the very reason universities teach "liberal" arts. By the time most students have reached college age, however, their attitudes and opinions are already set in concrete. Consequently, every many theoretical well-educated conservatives are at a loss when they encounter perspectives radically different from their own. Their reaction is, "You don't really believe that, do you?" They simply cannot comprehend how anyone in his right mind might hold opinions of that sort.

Here, for instance, is our own Chancellor dissenting in Brewer v. Williams, 405 U.S. 367 (1977) ("the Christian Burial case").

"The result in this case ought to be intolerable in a democracy which calls itself an organized society. . . . I do not understand how a contrary result in the Court reaches the astonishing conclusion . . . it beggars the mind to suggest how the Court reached its holding."

Little wonder that Burger resigned, surrounded as he was by five barbarians and/or mental incompetents named Stewart, Powell, Stevens, Brennan, and Marshall.

When I wrote the first draft of this column, I had in mind a certain conservative law-school colleague, a fine friend and great guy whose only shortcoming is that his Osaka Express intellect operates on HO gauge. More recently, after reading my last column, this same colleague boasted to me of how he had finally recognized it as satire. I informed him, with admis.sible restraint and a sense of forebearance, that it wasn't.

Memo to all my conservative colleagues, whose sincerity I respect: P"r"ease respect mine. I really mean what I say.

Even if my mind is not altogether as "right" as yours.
Record Revue

Little Feat’s Fuller Sound

by Tom Brooks

"Let It Roll" is Little Feat’s first album of new material in over a year. The band, formerly of Pure Prairie League, was recruited by the rest of the group to put together a band that was supposed to be a one-time collaboration. However, a successful tour (featuring occasional gigs with Jimmy Buffett) and the popularity of the album will probably send the band back into the studio soon.

Although based in L.A., the band’s greatest success came in Washington, D.C., possibly because of its frequent radio station WHFS-FM. During the ‘70s, the group ran off a string of albums featuring music totally different from anything else being recorded at the time. Little Feat could not be pigeonholed. The band had a Southern disco, California soft rock, or even southern rock. The, successfully combined soul music and orchestral touches to touch of jazz to produce a unique sound sometimes described as “fat or juicy” styles, especially jazz. The rest of the group was enjoying the success of their first hit single, "Oh Atlanta," writer by keyboard player Bill Payne. They were more interested in making some money playing more traditional rock-and-roll. Shortly after George’s death, "Down on the Farm," released as the last Little Feat album, was issued to tepid reviews. Recorded prior to George’s departure, the material lacked originality or pep. The strains between the brothers and the rest of the band, guitarist Paul Barrere, were obvious. The band reunited without George and attempted a comeback tour, playing venues like the Mosque in Richmond; but the effort was a failure. The old band tried to keep the band together. "I Got a Feelin’," a collection of old songs and alternate versions of old songs, was sold, but reviews worse.

The band was nothing without Lowell George, although he was not the only writer or singer in the group. Barrere and Payne wrote as many songs as George over the years, often collaborating with each other. However, almost all of George’s tunes were solo efforts and very distinctive; "Spanish Moon," "Fat Man in the Bathtub," and "Dixie Chicken," to name a few.

The group next recruited D.C.’s Catfish Hodge for a couple of projects during the ‘80s. The band ChickenLegs, featuring Hodge, Payne, Barrere, and bass player Kenny Gradney, issued one record on a minor label and went nowhere. A few years later, the same crew tried again as the Bluebeasters - with similar results.

Someone got smart in late 1987 when Craig Fuller was led into the studio to record with the band. Fuller, best known for Pure Prairie League’s "Amy" and "Two Lane Highway," had been out of the limelight even longer than Little Feat. He and keyboarder Eric Katzman issued one solo record in 1978 after leaving the League and had promoted the effort by warming up for Little Feat on the group’s last tour. There was no second record and no contracts for more material were forthcoming. The Little Feat project got proper funding and promotion however, veterans such as Linda Ronstadt, Bonnie Raitt, and Bob Seger lent a hand.

Fuller cannot create the same low growl that Lowell George was capable of; but he can sing with limited soul. The new album (featuring another amusing and attractive cover by the band’s favorite artist, Neon Park) has sold well. "Let It Roll," "Hate to Lose Your Lovin'," and "One Clear Moment" have all received airplay on commercial radio stations. This album has the stamp of Paul Barrere. The tunes are good, catchy, and interesting. They are not daring or innovative. Gone are the experimental jazz/blues tracks featuring punched-up horn solos, gone is the deep funk groove that showed up on many Lowell George cuts. However, the sound is consistent and the direction is clear. This reunion effort has paid off.

LSIC Plans Dinner-Date Auction

by Coral Leonar

Law Students Involved in the Community (LSIC) held its second-semester organizational meeting on January 26 to discuss fund-raising events and community service opportunities. Among the events announced were a dinner-date auction to benefit Big Brothers/Big Sisters, Farm Fresh-receipt collection and a suicide prevention campaign. Other projects such as the adult skills program, housing partners, and T-shirt sales were also discussed.

The second annual dinner date auction to raise funds for the Public Service Fund will be held March 1. Ten students from each class will be auctioned, along with gift certificates to many area restaurants and stores. Cathy Lee, co-chair of LSIC, feels that the auction will be a major success this year. She emphasized that “we were able to raise $1,300 in three hours last year.” With more data to be auctioned and a larger group in Trinity Hall, Lee expects even greater profits this year.

The Public Service Fund is also considering a su-sec-to party to be held later in the semester. Those who purchase tickets would be invited to a beach-theme party and be eligible to win a trip to the Bahamas. Although the party is still in the planning stages, the Public Service Fund hopes there is sufficient interest to make the event the third major fund-raiser of the year.

Continued on Page Eleven

A Valentine's Day Price Massacre

New Releases On Sale

Feb. 3-18

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Compact Disc

$6.98 & 7.98

$12.98

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Loked After Dark

Bar Kays

Animal

Wee Papa Girls

Beat, Rhyme, Noise

Debbie Gibson

Electric Youth

Alabama

Southern Star
Class Gift Committee Looks for a Sign

Based on input from last Thursday's third-year class meeting, the Class Gift Committee has begun efforts to raise funds to erect a new sign for the law school. Fundraising for a permanent sign for the law school began with the Class of 1983, and since that time, the Classes of 1984 and 1985 have contributed. According to Committee Foreman Bo Sweeney, contributions from previous classes place the Class of 1989 at just over the halfway mark of collecting the estimated $4,000 needed for a sign.

Sweeney remarked that Committee saw the sign both as something a school of Marshall-Wythe's caliber deserved and as an attainable goal for the Class. Associate Dean Deborah Vick, an advisor to the Gift Committee, commented that the "administration and faculty were eager to see a sign built and pleased that the Class decided to complete the project." The sign will be 10' x 5' and made of brick. A marble center piece will be inscribed: "College of William and Mary, Marshall-Wythe School of Law." Beneath the marble center will be a bronze plaque recognizing the contributing classes.

In the coming weeks, the Committee will be soliciting bids from area contractors. Fund-raising began early this week as members of the Gift Committee began soliciting contributions from classmates. Foreman Sweeney stressed that, in order for work to begin on the sign before the end of the semester, contributions must be made early. Members of the Committee include Len Berg, Becky Blair, Mary Conroy, Louis Cunningham, Mike McAuliffe, Neal McBrayer, Steve Mulroy, and Bo Sweeney. Although twenty dollars is suggested, contributions of any amount are welcome. Checks should be made payable to the Marshall-Wythe Annual Fund with the following notation on the memo line: 1989 Class Gift.

In addition to Committee members, the law school receptionist and Associate Dean Vick will accept donations to the Gift Fund on the Committee's behalf.

BOXED BRIEF

by Will Murphy

Last week, the British government announced plans to radically alter the practice of law in the United Kingdom. The most significant changes would be the abolition of the division between barristers and solicitors and allowing limited contingency fee arrangements.

Traditionally, only barristers were allowed to present cases in most courts and only solicitors may deal with the public. There are only about 5,000 barristers and they are generally better-paid than solicitors. Barristers are currently self-regulated, but the government would like to replace barristers and solicitors by solicitors. Barristers would then answer to an independent regulatory body, and the public would benefit from competitive and efficient legal services.

The changes are part of a Government campaign to make the British economy stronger and more consumer-oriented by application of free-market principles. The sudden deregulation of the British securities markets in October of 1986 was politically comparable to the changes now being discussed. That reform bolstered London's position as the leading international financial center.

Some form of the Government proposals should reach Parliament by the fall. Their fate in Parliament is uncertain. The real issue: At present only barristers wear the long, goofy, white wigs. Will all lawyers now wear them or will the barristers abandon them?
Corr Continued

Continued from Page Three

Johnson found that since Corr's statements touch on a matter of public concern - the teaching effectiveness and improper conduct of a public employee - that it was "impossible to determine from the record now whether or not the plaintiff was entitled to the protection of the statute." It was therefore up to a jury to decide whether Corr's non-basis assertions about Coven were so unfounded as to "legitimately raise doubts about Corr's judgment and qualifications.

Second, the defense argued that Corr's denial of tenure was based on a lack of qualifications and not on any retaliation for Corr's statements about Nichol. Johnson wrote that "plaintiff has cited sufficient facts in the record, particularly in the deposition testimony of Coven and Sullivan, to withstand a defendant's summary judgment motion."

The third and final argument for dismissal of the free speech claim was based on procedure. The defendants argued that 42 U.S.C. § 1983 does not give the state court jurisdiction to entertain federal claims for action, and that they were immune from suit under the doctrine of sovereign immunity. Johnson said the Commonwealth of Virginia does not grant absolute sovereign immunity to state officers when they are sued in their individual capacity under state law for intentional torts, and then extended this reasoning to hold that a state official sued for an intentional act under federal law could not enjoy any greater immunity than what the state provided. He also found that, as a court of general jurisdiction, there was jurisdiction to hear any claim, federal or otherwise, unless jurisdiction is expressly denied by statute.

In dismissing the breach of contract claim, Johnson wrote it is the opinion of this court that the subjective determination of those persons making tenure recommendations and decisions are not the proper subjects of judicial intervention...To the contrary, the very concept of academic freedom which is so basic to our society demands that college and university officials be free to make academic decisions such as whether or not to grant tenure without the specter of having their decisions reversed, and possible reversal, by a judge or jury.

Johnson's 13-page opinion repeatedly states that the courts must not be turned into a "super-tenure committee." He based his dismissal of the breach of contract claim on the lack of any material facts that are not actinable, and found fault with Corr's interpretations of the Faculty Handbook and the College's published tenure procedures, which Corr had argued were a part of his contract.

Judge Johnson also dismissed Corr's defamatory claim, which was primarily based on negative statements made by Dean Sullivan about Corr's qualifications. Johnson wrote that "plaintiff has cited sufficient facts in the record to support his claim...he offered no other interpretation. Johnson then dismissed the defamation claim because statements of opinion are not actionable.

On The Fence

Continued from Page Seven

majority and the other is in the minority. The minority is ruling over the majority. Some in the majority, in response to the Forest Service, wrote that the situation was reported in The Washington Post and The New Republic in November or December, chased members of the majority into a church and killed them. Some of the dead were children. But because both tribes are black, we neglect the injustices in Burundi and we caricature those taking place in South Africa, all because of our guilt.

We should remember the injustices of the American past--especially those of us whose ancestors were present and able to act when those injustices were taking place. But we should not make other countries alone for our guilt, and when we formulate our foreign policy, we should not let our guilt do the talking.
No One Wants to Be Number One
by George Leedlow and Tim Hug

This has certainly turned out to be a very big game in college football. While we at The Advocate sports desk predicted the upset of both Duke and Illinois by this issue, we would have thought that the potential number-one spots would fall in order.

The Duke Blue Devils dropped a big one at home, as expected, against arch-rival Carolina. They then continued their conference spiral with losses to both Wake and N.C. State. With the number-one spot open to them, undefeated Illinois dumbs to Minnesota, by seven.

No problem; Georgetown, at fifteen and one, can jump right in to fill the spot. No, not to be; the Hoyas lose to LSU by two in front of a record crowd of 54,251. By the way, be advised to keep an eye on Chris Jackson of the Hoyas, his twenty-eight-point performance while being triple-teamed for forty minutes by a strong Hoyas defense simply not matched his season average.

With these three gone, Louisville becomes the odd-on favorite for the number-one spot. No, not to be, Louisville loses the game to Ohio State and the number-one big man in the college game, Pervis Ellison. Ellison's knee ran a little bit faster than his foot with less than a minute left in the first half. The injury doesn't look to be as bad as it seemed on the tube, though they say the ligaments are merely strained and he could be back by the printing of this issue.

With all of this, especially Pervis's injury, we have to vote the Sooners to the top-buck nana spot. They were number four before this roller-coaster started and they proved they can outrun anyone in the league. Besides, we can't root for a guy named "Mockley?"

What went on at Clemson this weekend? Six Tigers, including the leading scorer and the leading assistant wore street clothes to ride the pine for the Duke game. Apparently for being bad in study hall. Study hall? College? Could it be that someone paid in the wrong cup somewhere and this is all we're supposed to know. To fill the squad out for the Duke match-up, the Tigers suited the team manager, Dennis Hopf. Hopf averaged eighteen a game at some high school in Georgia. He did not play.

ELS...Lobbies General Assembly

by Christopher Lande

The Lobbying Committee of the Marshall-Wythe Environmental Law Society (ELS) visited the Virginia General Assembly this week. ELS members expressed interest in the Environmental General Assembly in Richmond last Wednesday to lobby local legislators on proposed bills addressing environmental issues. The Lobbying Committee, led by Patty Lueders, focused its lobbying efforts on H.B., according to Delegate George Greyersey. The practical effect of the bill would be to designate the James River, Yorktown area as an historic district and to help prevent excessive commercial development. Spokesperson of the bill want to avoid the over-development which has already ruined much of the historic Jamestown, and the nature of the tourist areas of has also contributed to the City of Williamsburg, Virginia and Lobbying Committee by using extensive research to legislators on these environmental issues.

Of the efforts of ELS, Mary Munson said, "Our activities are geared toward learning how to channel our belief into effective action. Lobbying the General Assembly has exposed us to the strange politics, and work necessary to promote change."

In addition to its lobbying activities, ELS is providing students to Environmental Law conferences in Boulder, Colorado and Washington, DC, expanding on-campus recycling collections to include glass and newspapers, and raising funds to pay its costs. ELS hopes that students will be able to contribute to environmental causes by joining these activities, as well as by developing practical knowledge which can be applied in their careers.
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