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Inside the Amicus

**Faculty Reconsider Curve**

By Eric Nakano

Room 127 nearly filled on November 11 at a meeting to gather student feedback about a proposed change to the grading curve. Professor Barnard, chair of the Dean’s Advisory Committee, described the process leading up to the proposal before asking for feedback from the nearly fifty student attendees. According to Barnard, faculty inquiry into the curve began last year after six or seven professors exceeded the percentage of A and A-minus grades suggested by the curve, leading to the question of whether the current system adequately represented the student body. This led to an inquiry not only into the grading practices at William & Mary, but to an examination of grading practices at other law schools.

The Law School currently employs a “Highly Recommended” curve, which instructs professors to issue between 10-20% C-plus marks, 12-18% A or A-minus, and 60-75% B-minus to B-plus grades in any class exceeding 30 students. Since the curve is “Highly Recommended” rather than mandatory, professors are permitted to issue a larger number of high or low grades, but are expected to provide an explanation for the divergence. Although there is no explicit requirement as to the distribution of grades, the curve suggests that its crest is at B. Classes with less than 30 students are not subject to the grade curve, and on average issue higher grades.

Upon comparing the grading practices at William & Mary to those of other schools, Barnard explained that competing schools either have a higher grade curve or, if no curve is used, give higher marks to their students on average. Vanderbilt’s curve, for example, does not extend below a B-minus, while the University of Virginia, which does not curve, issued C-plus grades to only 15% of its students. The effect of this is that a student ranking in the 50th percentile of the class at William & Mary at the end of their first year will walk into job interviews with a 3.0 G.P.A. while a competing student from the University of Virginia will have a 3.3 G.P.A. This, according to Dean Kaplan, hurts our students during their first year job search. Kaplan explained that although OCPP responds to frequent inquiries into how the class rank is formulated, some employers not familiar with William & Mary will make the assumption that William & Mary students are less capable based on their lower grades. Should the recommendation of the Advisory Committee pass, a new “Highly Recommended” curve would be put in place that would reduce the recommended number of C-plus marks and increase the number of A and A-minus marks, with the various B marks expected to occur somewhere around the B-plus mark. With the new curve in place, a middle-ranked Will

Continued on page 3

**Marshall Wythe Helps Needy Families at Thanksgiving**

By Brooke Heilborn

Before leaving school for Thanksgiving break, you may have noticed several tables in the lobby overflowing with food and decorations. The huge collection was a product of BLSA’s annual Thanksgiving Basket Contest, which gives food to needy families in the Williamsburg area each year. Legal Skills firms and other classes, along with Marshall-Wythe faculty and staff, sponsor group food baskets that are collected and then judged on abundance, presentation, and creativity. The group with the winning basket then receives a free pizza party.

Dean Rogers, one of the judges of the contest, said that this year’s competition was a phenomenal success. Legal Skills firm Lederer and Posey placed first in the category of abundance, as their “Patriotic Thanksgiving” display filled almost two tables. For creativity, one of the tougher categories for the judges to decide, the Journal of Women and the Law ended up in first place. Professor Lynch’s firm, a crowd favorite, placed first in the category of presentation and finally ended up with the title of Best Overall. After the contest, the baskets were taken to a local social services agency, where they were then distributed to selected needy families. Thanks to BLSA, Melinda Hasbrouck (contest coordinator), the judges, and all who participated in helping those who are less fortunate over the holiday season.

**Burmese Human Rights Violations**

By Tim Peltier

Professor Cao’s Public International Law class often discusses the role of international law in protecting human rights around the world. During the week before Thanksgiving, the class was visited by a man who does more than just theorize about these issues. Tyler Giannini, Co-Founder and Co-Director of the non-governmental organization, EarthRights International, works to stop forced labor in Burma.

A William & Mary undergraduate alumnus who had the misfortune of going to law school in Charlottesville, Giannini and another American lawyer founded EarthRights after seeing a Burmese refugee camp in Vietnam. Recognizing that there was no national court system for the Burmese people to turn to EarthRights has used American courts to fight for these people.

The Burmese Government and American, British, and French oil companies are currently building an oil pipeline in Burma. They are forcing the local population to clear away the jungle and carry heavy loads. The local people have been forced out of their homes and brutalized while providing virtual slave labor for the project. Giannini and his group have sued the oil companies in U.S. courts to stop these human rights violations. While the process is slow, EarthRights made legal history by winning jurisdiction over corporations for human rights abuses in foreign lands. This had never been done before. If EarthRights eventually wins this case, companies could be held liable for human rights violations under international law, even if local laws ignore, or even support, the atrocities.

Giannini’s efforts show that a lawyer can make a difference with efforts to make the world a better place and that even a small group can take on a large multinational corporation and hold it responsible for the suffering it inflicts overseas. At the same time, EarthRights helps the Burmese people to fight for themselves, and begin to believe in the rule of law while creating legal precedent that may make companies think twice before violating the rights of people in other countries.
Trial Team shines at Michigan State Tournament (without use of secret tactical defense ploy!)

By Sarah Kissman

They practiced it until it they could deliver it effortlessly. During the two lengthy rehearsals at the law school, during a ten-hour drive in a minivan to East Lansing, Michigan, the four members of the National Trial Team who competed at Michigan State-Detroit College of Law's trial advocacy competition knew they could deploy it if the team was suffering obvious defeat.

Tritials became embarrassing struggles, competitors Seth Askins, Dan Fortune, Sarah Kissman, and Steve Thibodeau, could ensure that William and Mary would leave with an impact, returning to Marshall-Wythe as legends, or at least a stern defense.

"It does not matter from Dean Reveley "Triiiaalll I hear about y'all arguing about some eight-foot Weeke moving to a planet full of three-foot Ewoks!"

That's right, the lethal "Chewbaca Defense".

The team kept the tactic in reserve, though, as its showing was better than expected. Fortune did use the "It does not make sense!" theme in a closing argument that netted him a perfect score for closing from one judge in the team's last trial.

Finishing with a 2-1 record in the preliminary round, William and Mary allegedly missed the cutoff for the final round of four by a slim margin, according to Thibodeau, who attributed that to the declarant, an MSU-DCL student on that school's trial advocacy board. Each of the 16 teams competing did three trials, alternatively representing prosecution or defense. Teams with the best records advanced to the final round, where they competed in a single-elimination format. If several teams tied with similar records, teams were selected based upon jury votes and critique scores. Each trial was judged by real judges, or practicing attorneys, and before a jury of three attorneys.

William and Mary defeated Widener (Pa.) in the first trial, held Oct. 25. Askins and Fortune were defense counsel, and Kissman and Thibodeaux played defense witnesses. The team beat Florida by a mere three points the next day with Kinsman and Thibodeau as prosecutors and Askins and Fortune playing witnesses.

Florida State defeated William and Mary in the final trial, in which Askins and Fortune were defense again. The judge presiding over the trial denied every motion and objection William and Mary offered, making the trial difficult for the defense. Florida State competitors remarked in the aftermath that they had never seen a trial advocacy competition judge rule so heavily against a team. In the post-mortem, the judge explained that in each round, organizers instructed judges about how much leeway to give each side on rulings. In that round, the judge was deliberately strict with the defense.

In this last round, Fortune earned a score of 20 out of 20 from one of the four critiques for his closing, which he later described as going all-out in an to save the round. His most memorable moment was when, to emphasize a point and build drama, he dropped down into a squat to illustrate how a cop in the scenario searched for a rap artist, using the real weather of the cold, the snow, and temperatures in the 20's.

"He's going into a squat, and I was thinking, 'My God, is he going to spring at the jury?'

The case was similar to the real trial of rapper Sean "Puffy" Combs. In the mock case, a rap artist was charged with felonious assault for shooting another rapper at a local nightclub.

The William and Mary members were pleased with the competition results, after hearing that William and Mary teams were often beaten by schools with a heavy emphasis on advocacy programs. This team hoped to compete without being easily defeated by other schools, so the record and compliments from opponents, critiques, and organizers gave a realization Marshall-Wythe can compete at a high level.

The trip was not all about evidence and argument. In another stunning achievement, the team finished "the alphabet game' 200 yards prior to the border, having started outside Richmond looking for letters on signs. "X' was vexing, as the team searched for it from Bethesda, Md., to Hagerstown, Md. The team also survived the first real winter weather of the season, arriving through downpours of rain and enduring sleet, wind gusts up to 30 or 40 mph., and temperatures in the 20’s and 30’s. Truly, we felt like a "tropical people.

The weekend was enlivened by some good, old-fashioned law student moshing of free drinks. The school sponsored a cocktail reception after the preliminary trials, to announce the finalists. After two hours of mingling and eating finger foods at MSU-DCL expense, William and Mary decided that advancing to the finals had serious consequences, such as preparing at 11 p.m. for yet another round in the morning. So, unlike some teams who slinked away upon learning of their demise, the Marshall-Wythe gang joined new friends from Florida State and Widener to close down the reception and venture onto the town.

At the next nights' awards dinner, teams won for best opening, closing, cross, and direct arguments. How the team found and Mary did not win its hoped-for closing award, or any others. Georgia State won the tournament over Southern Methodist, with an SMU student earning the best original award. The other finalists were Widener (Delaware) and Pacific.

The team also took time to enjoy some of Michigan's delicacies, including more late-night "Pizza House" meals after trials than anyone should eat, and breakfast and lunch at Toibodeau's favorite spot on the planet, Tony's Steak Sandwiches. The team eventually met the parents, as Bill and Ginger Thibodeau overcame the technological difficulties and mystery of cell phones to have lunch and breakfast.

Next semester the National Trial Team will send competitors to the National Trial Competition regional round and the ATLA/VTLA competition.

Morris Dees Awarded the Marshall-Wythe Medallion

By Katie Riley

Civil rights attorney Morris Dees, co-founder of the Southern Poverty Law Center, was recently awarded the Marshall-Wythe Medallion. The Marshall-Wythe Medallion is an annual award to a distinguished member of the legal community. Our law school faculty select the recipient each year making sure to rotate the nominees through three categories: judges, law professors, and practicing attorneys. Justice Breyer was the 1999-2000 recipient of the Medallion.

Morris Dees's visit to the law school to receive the medallion was low key; there were no formal speeches or receptions. Instead, after having lunch with faculty and administration, Mr. Dees met with student members of the American Constitutional Society to answer questions about his work. Recently elected ACS president Tim Kollas introduced Mr. Dees. Tim (an Oregon native) commented that he had first learned of and begun admiring the civil rights attorney when Mr. Dees successfully sued white supremacist Tom Metzger and the White Aryan Resistance group for their role in the death of a young black student in Portland, Oregon.

Morris Dees was born in 1936 in Shorter, Alabama and grew up the son of a cotton farmer. During his discussion with the students he described how he was born into a segregationist society, and didn't think much of it until he began practicing law and heard the stories of his African-American clients. He, and attorney Joe Levin, co-founded the Southern Poverty Law Center in 1971 with the goal of taking on pro bono cases for minorities and the poor to fight for desegregation in recreational facilities, reapportionment of the Alabama legislature, and to implement fed-
Holiday Shopping On-Line
By Katie Riley

Law school brings forth addictions. The administration warns us as 1Ls to avoid drugs and alcohol. But they didn't warn me against Internet shopping. (Okay, I'm not really addicted; it's a hobby.) Well, with the holiday season upon us, I've decided to share some of my sage advice for shopping on the Internet.

Shopping on-line is great. You can shop anytime, anywhere you have an Internet connection. You can shop in your pajamas in the middle of the night. If you have small children, you can shop for their presents without having to hire a babysitter. If you're shopping and shipping to friends and relatives out of town, you can avoid the middle step of you standing in line at the post office by simply shipping the item directly to the recipients. Even if you don't buy the item on-line, you can use the Internet to get ideas on what to look for when you go to the stores. Or, you can order catalogs from websites and look at all the pretty pictures at your leisure.

The Internet is also full of great deals: clearance items, free shipping, "$10 off with the purchase of $30 worth of stuff," etc. Try not to pay retail. Sometimes you can get special offers by linking to a website etc. Stuff you won't find at the mall, at least with lots of holiday items and nature themes.

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Bennie Rogers is not only the Assistant Dean of Admission, but he is also the Assistant Director of the Academic Support Program. As a 1999 graduate of William and Mary Law School, he remembers well the process of applying to the bar and sitting for the exam. His sympathy for students and their struggles with the exam led him to develop the upcoming Spring Bar Preparation Workshops, a series of programs that will take place on campus during the spring semester. He spoke about his plans for the Workshops. The following questions and answers reflect issues we discussed but are not direct quotes from the Dean.

What are the reasons or goals motivating this new program?

The main objective is to improve William and Mary’s bar passage rate for first time test takers. According to the latest figures from US News and World Report, our passage rate is at 39%, which is roughly equivalent to similarly situated schools such as Washington and Lee. The overall rate is 74% for the entire state. Although our numbers are good, they can be better. The goal is to improve passage rate by about four or five percent, which means that an additional eight or ten students will pass on the first try. Additionally, an aim of the program is to aid graduates who are taking the bar for the second time.

According to Dean Rogers, bar passage rate is one of the factors that students should look at when applying to law school. While not always a point emphasized by recruitment professionals, students should look closely at their personal sensibilities and our beliefs about what are core American values. We probably all have a place where our commitment to free speech bumps hard up against our other values. Pick your free speech poison: Is it flag burning or gun carrying? Lawyering for the poor (little joke for folks in Lawyers in Practice Settings...). Something gets everyone in the gut in Free Speech Land. The truth is, most of us might like the opportunity to redraw the boundaries of free speech—just a bit—but we conforms more closely to our personal sensibilities and our beliefs about what are core American values. With just a bit of redrawing, we could have things just the way we like them. I want harassing speech out of the window, regardless of whether it rises to the level of fighting words. What do you want? The sky’s the limit.

Ah, but there’s a rub. If we all redraw the boundaries of free speech just a bit, in the end we would find that little is left. Knock off flag burning and an unsightly bump there, and eventually the whole line will come down. But what about when principles of free speech jurisprudence lead to un-American outcomes like the one in Black v. Commonwealth? Paul got me thinking about this by expressing his opinion that flag burning is a poor, illegal, choice for political protesters. We probably all have a place where our commitment to free speech bumps hard up against our other values. Pick your free speech poison: Is it flag burning or gun carrying? Lawyering for the poor (little joke for folks in Lawyers in Practice Settings...). Something gets everyone in the gut in Free Speech Land. The truth is, most of us might like the opportunity to redraw the boundaries of free speech—just a bit—but we conforms more closely to our personal sensibilities and our beliefs about what are core American values. With just a bit of redrawing, we could have things just the way we like them. I want harassing speech out of the window, regardless of whether it rises to the level of fighting words. What do you want? The sky’s the limit.

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By Holly Shaver Bryant

On November 2, the Virginia Supreme Court held unconstitutional the section of the Virginia Code making it "unlawful for any person or persons, with the intent of intimidating any person or group of persons, to burn, or cause to be burned, a cross on the property of another, a highway or other public place." Va. Code § 18.2-423. The statute made cross burning a Class 6 felony.

The statutory challenge arose in three consolidated cases in which persons appealed their convictions under the cross burning statute. In the first case, Brown v. Commonwealth, the defendant, a member of the Ku Klux Klan, burned a cross during a rally held on a farm in Carroll County with the permission of the property owner. The second and third cases, O'Mara v. Commonwealth and Elliott v. Commonwealth, arose from the same incident, in which a group of white men including the defendants burned a cross in the backyard of their Virginia Beach neighbor, a black man who had complained about one of the defendants firing his guns in the back yard without the permission of the homeowners. The Commonwealth argued that statute was a good and undoubted way of life and system of government. I think they are right on when he wrote his last issue of Law in a Righteous Cause. The court held that statute was a good and undoubted way of life and system of government. I think they are right on when he wrote his last issue of Law in a Righteous Cause.

The court criticized the statute for selectively regulating speech based almost solely on its content. The court held that statute was a good and undoubted way of life and system of government. I think they are right on when he wrote his last issue of Law in a Righteous Cause.

What is this new program about?

The program will aid students taking other exams by helping them locate the application of their choice. Dean Rogers hopes to eventually establish a system by which all applications will be available at the school as well as sample questions from all other states.

Is this program meant to replace or enhance commercial courses such as BarBri?

The program is definitely meant to enhance current resources and not meant to replace any other review course he or she has decided to enroll in. Dean Rogers has been in contact with several companies that offer paid classes and has asked if they would be willing to assist with the program. He is still talking with one of those companies to see if they will be a part of the workshops.

How do we sign up for the workshops?

Watch your email for further details about the times, locations, and precise subject matter of the workshops, which will most likely begin in early February.
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Bayes Theorem holds that the posterior or revised probability of an event occurring given a condition (the probability of A given B, written "A|B") is equal to its likelihood given a condition (the probability of B given A) multiplied by the likelihood of the condition (probability of A) divided by P(B|A) * P(A) + P(B|notA) * P(notA).

For example, if a machine which malfunction functions 30% of the time produces 10% defective parts when it functions but only 1% defectives when it is functioning properly, through Bayes Theorem we can figure out the probability that a machine was malfunctioning when we observe a defective part:

The posterior probability that a machine was malfunctioning given a defective part divided by a malfunctioning machine (10%) multiplied by the probability a machine is malfunctioning (30%) divided by the above (10% * 30%) plus the probability of a defective given a properly functioning machine (1%) multiplied by the probability that the machine is functioning properly (70%). After doing the math, we know that the probability that a machine was malfunctioning given a found defective part is 81.1%. The likelihood that the machine was functioning properly when the defective part was produced is 18.9%. The equation reads: ((1)(.3) / ((1)(.3) + (.01)(.7))) = .811.

This is all well and good and will get you through statistics in the MBA Program, but what does it tell us about terrorism? I see at least two applications:

Bayes Theorem Applied #1—In the aftermath of the hijack attacks, security was ramped up at stations and the received wisdom from the pundits and government officials is that as a result, flying has never been safer. This is true according to Bayes Theorem only if you discount the value of new information. Doing so impugns knowledge we travelers that we did not have before September 11th. In addition to the four hijackings we know all too well, all accounts have it that the immediate
groundstop by the FAA thwarted additional hijackings. Even taking just the four hijackings we are sure about, we must revise the probabilities and then factor in the marginal utility of the increased security measures. If the prior probability of a commercial flight being hijacked was one in a million, we have to revise that likelihood given the September 11th takeovers to five in a million before calculating the next iteration of the likelihood of airliner terrorism. Only with the updated probabilities can we properly factor in the marginal utility of the increased security. Do the marginal benefits of having National Guard troops double-check passengers' identification and boarding passes, the hand searching of carry-on luggage, and restricting gate access to ticketed passengers more outweigh the new information we have about hijackings? Bayes Theorem suggests otherwise. I do not mean to alarm anyone. Flying is still safer than many routine activities; it is just not safer than before September 11th.

Bayes Theorem Applied #2—Ever since the terrorist attacks, scanning devices which identify people wanted by law enforcement authorities by their features, or "facial maps," have been discussed as a way to combat terrorism. Does the use of these machines pass Bayes Theorem muster? From a strictly empirical standpoint, there are two key variables: (1) the accuracy of the machines and (2) the known incidence of the terrorist population. This latter criteria hinges on demographic profiling.

If the FBI is seeking 300 terrorists thought to be in the United States (roughly 1 in a million residents) and three separate facial scanning machines are 95% accurate (5% false positives), 99% accurate (1% false positives) and 99.9% accurate (1% false positives), respectively, the likelihood that a "match" in the general population is:

A) 95% accurate: .0019%, or less than 1 in 100,000 people who are match the pictures of suspected terrorists are actually terrorists; the other 99,998 will be false positives subjected to increasingly invasive screening procedures.

B) 99% accurate: .0009%, or about 1 in 10,000 people who match are "real" matches, meaning 9,999,999 false positives for every "real" hit.

C) 99.9% accurate: .0099% or about 1 in 1,000 people who match are "real" matches.

If such an accurate machine as "C" exists and the test is re-run on "initial matches" with adjusted prior probabilities (updated to 1 in 1,000 from 1 in 1,000,000), 50% of "double-matches" will be "real" matches. This observation leads to the latter of the two points: that of profiling and the incidence of the known terrorist population.

For heuristic purposes—only—suppose that 200 of the 300 sought suspected terrorists are Middle Eastern men between 15 and 30 years of age, that these individuals can be readily identified as such by the operators of the scanning machines, and that there are 200 Middle Eastern men in that demographic in the States. The prior probability is 1 in 1,000, suspected terrorists and we can run our Bayes Theorem analysis using the same machines above:

A) 95% accurate: 1.8% of matches will be "real".

B) 99% accurate: 9% of matches will be "real".

C) 99.9% accurate: 50% of matches will be "real".

How this information is employed (or is "deployed" a more accurate description?) will be key. From my perspective, I think Bayes Theorem indicates that widespread use of facial scanning technology would do more damage than it is worth as a terrorism fighting tool. In the competitive pursuit of suspected terrorists, 99.9% accurate machines would lead to 999 witch hunts for every "real hit" in the general population. With a more realistic assumption of 99.9% accurate machines, even in the profiled demographic of young Middle Eastern men, 91% of matches will be false positives. It does not take a fertile imagination to conjure up scenarios of these "initial matches" going terribly wrong.

People who value time more than money.

These would tend to be people who have more money than average. If you consider time as part of one’s net worth (time is money, you know), then relative to their total worth, time is the more scarce resource, a pie chart would reveal that time is a small slice of the whole pie.

Who stays in the lines and gets the gas?

People who value money more than time.

Of course, the converse of the above explains who these people tend to be. There may be some outliers in the who’s who generalization. Some people with a lot of money would still rather have a full tank. Some people with more time than money would still rather not wait in line. Nevertheless, everyone gets what they want. In fact, in this hypothetical, the rich need not fear that they aren’t getting the inherent advantage that the capitalist system gives them, and to which they’ve grown quite accustomed. No, they can still have it both ways. Because they are price insensitive, they can pay someone to take their car to the station and wait in line. They get a full tank and they save their time.

Let’s compare the outcomes. In the first hyp, everyone got what they genuinely wanted, except for the poor, who were forced to save their time and their money. One might suppose that this is good for them, but it’s a truly paternalistic result if ever there was one.

In the second hyp, everyone got what they genuinely wanted, with wages and publications. People who valued gas more got gas. People who valued time more got time. Another victory for the market.

Except that’s not what happened. Merchants were not sensitive to the needs of their customers. They exploited public panic in the face of uncertainty. Americans need to know that we’ll still be able to mow our lawn next week. Gas merchants know it, and they took advantage of our
The complete realization of the population’s values, and an insecurity. As a result, we got an anomalous concentration of wealth, and an incomplete realization of the population’s values.

If we assume that market efficiency is the real motive and make price the only variable, we see that leaving the price alone results in every individual realizing his or her values. Raising the price results in only 5/6 of us realizing our values. Raising the price does not serve market efficiency as well as leaving the price alone. Therefore, since merchants raised the price anyway, efficiency can’t be the real motive.

If we assume that greed is the real motive, the formula works perfectly, and meshes with reality. Leaving the price alone does not serve greed. The customers get what they want, but the merchants walk away with a big pile of cash.

The problem with market analysis is that it tries to quantify so that everything can be explained with tidy formulas. Things that are difficult to quantify are simply excluded from the formula. Humanity does not fit in well. Greed does not fit in well, so market analysts simply assume it away. Unfortunately, this not only causes the analysis of the market to fail, it also causes analysis of the larger world to fail. The very human reaction of Jeb Bush, hardly a Marxist, is dismissed as unprincipled, reactionary rubbish, because it does not suit the perceived market justification.

Even if that justification were correct—even if we could alter the formula so that greed actually did best serve society’s needs—Jeb’s revulsion should not be derided. You can’t prove that an apple (human character) isn’t rotten by showing an orange (the market) that’s perfect. Even if tripling the price of flags on September 11th really was the best thing for the market, for perhaps the only time in my life, I’m going to agree with Jeb Bush: That’s sick.

Quick note before I get started: I am pretty sure that the idea to alphabetize this list came from the part of me that this column is designed to silence. If you read one of my first columns, that’s right, the law school may have reared his head again. So to prevent him from hanging around and ruining this for me, I bought a six-pack and am going to drink until this column is done.

A. The Amicus Curiae: Hey, they actually publish my rantings; they at least deserve a spot on the list.

B. Britney Spears: If you really have to ask, you obviously did not see the last fifteen minutes of the concert she filmed for HBO, and for you, all I’ll say is it was raining!!

C. Curt Schilling: The answer to all Yankeeto-haters’ prayers.

D. Duke Basketball, and of course, Digital Cable.

E. Ethics class. It taught me everything I needed for the MFPE. On a related note, I always thought there should be a punctuation mark to indicate sarcasm.

F. I am just over a semester away from graduating, there is nothing to be thankful about for the letter F.

G. The Green Leaf: Smoky, crowded, and from the constant police presence outside you’d think it was in the middle of a war zone. But really, how insane would we be without it?

H. Heathers: One of the great dark comedies of all times, and greatest of the 80’s. Set in a high school, main character is an outsider, soon to be famous people (Chris Slater, Winona Ryder, Shannon Doherty), lines like “I love my dead gay son!!” and “Grow up, Heather. Bulimia is so ’87”, and features “Teenage Suicide: Don’t Do It!” by Big Fun on the soundtrack. What more can you ask for?

I. Intoxicated. Yes, yes I am.

J. Julia Stiles, Jennifer Connelly. Because I said so.

K. Kenny Collins: Going to great lengths to demonstrate just how many ways there are to choke at crucial moments in big games...%&@!!!

L. Lord of the Rings and of course Law and Order.

M. May 12, 2002: Graduation, or as I like to call it, the storming of the Bastille.

N. New Airport Security. Out of flights, you are chosen 5 times, can they still be called “random”?

O. Optimus Prime: Still cannot believe they killed him in Transformers: The Movie. Don’t know whether I am necessarily thankful for him, it was just the first thing that popped into my head.

P. Too...many...un-publishable...thoughts...Must...move...on.

Q. Hell, I just give up.

R. Rebecca Romijn-Stamos: Not particularly, but more in connection with a friend of mine. I’ll explain. My friend Ricky, who is a big fan of others, actually goes into a rage whenever one of us says her name and continues past the hyphen. These are similar to Conan O’Brian’s tamurs the first time she appeared on his show after she married Uncle Jesse, except Rick’s rages are directed at whomever acknowledged her marital status. It was this mistake that once got my friend Allan thrown into a dumpster in Georgetown. It’s funny because it wasn’t me.

S. Stereophonics: This is a Welsh band that spent a portion of the fall opening up for U2. They’re apparently huge in the U.K., write good songs, are fronted by a guy who WILL someday become the lead singer of Oasis (as soon as Noel snaps and kills his brother), and when I saw them in Philly, provided one of the top five concert moments of my life. Twice during one song, the entire band hits four or five notes in a row all in sync. On this night, both times during the song, the drummer decided to only use one arm to do his part. With his other hand, in perfect sync with the rest of the band, he punched himself in the face.

T. Nick Tahoe’s Commonly known as Tahoe’s. Home of the Garbage Plate, it is the only distinctive cuisine from any hometown, Rochester, NY. Ingredients: two hot dogs, cheeseburgers, hamburgers, or Italian sausages covered in two of your choice of macaroni salad, fries, home fries, hash browns, or potato salad, then smothered hot sauce. In short, it is the greatest late night food ever. I wonder why I’m craving grease right now???

U. U2.

V. Velma and the rest of her Mystery Machine companions. And I’m talking about the classics, not that horrendous transformation into some horrible hypothetically diagrammed in chalk. In addition, Buiba, our favorite tortoise, started to visit my nightmares. He appeared one evening and mistakenly shot my dog, thinking he was a very big turtle.

Contracts was just as bad. I started to wake up in a sweat wondering if I was contractually bound to promises that I had hoped were unenforceable. Was I really going to have to let my husband hang a velvet portrait of Elvis in their living room since he let me throw out the “Hotdogger” hot dog cooking appliance his buddies gave us as a wedding present? Was his loss of the “Hotdogger” consideration? How does Harry Potter fit into all of this? When I decided this was becoming a problem, I bought the advice of a friend of mine who is also in a stressful academic environment, albeit at a higher level. As a first year professor I thought she might be able to help me find a way to deal with the stress. Her answer? Harry Potter!

At first I scoffed, but after a nightmare based on legal reading skills, I knew I needed help. She loaned me the first book and I was hooked.

The good news was that I stopped having nightmares. The books were enthralling—a nice change of pace from my coursework. The bad news was that I could not put the books down. My plan to boost my productivity by eliminating my nightmares did not turn out quite as I planned. I ended up reading each of the four books more quickly than the last—leaving another, less intriguing reading fare to the wayside. I lost a little sleep and I lost a little study time, but the nightmares are gone. I think in the end, Harry Potter helped me more than he hurt me, and I am grateful.

Harry Potter to the Rescue

By Rebecca Goodgame Ebinger

I never would have written a column on Harry Potter six months ago. I probably would not have read an article on Harry Potter. In fact, I would have laughed at an article on Harry Potter. Not anymore. My second semester of law school brought the boy wizard into my life. I guess everyone resents differently to his or her first semester of law school, and I did not react particularly well. I started to have nightmares. That might sound silly, but it was real. My nightmares primarily revolved around torts, but contracts also featured in my nighttime cinema. Thankfully, Professor Dickerson’s use of the Bear family and Goldilocks in Civil Procedure was benign enough to spare me from nocturnal trauma. Also, it is real to have nightmares about syllogisms, so I was safe from Property. Still, Torts and Contracts haunted me.

I started to dream about the torts I must have committed thus far in my life. Life’s daily events began to wind up in my sleep, transformed into some horrible hypothetically diagrammed in chalk. In addition, Buiba, our favorite tortoise, started to visit my nightmares. He appeared one evening and mistakenly shot my dog, thinking he was a very big turtle.

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Leftovers

By Char Rieck

‘Tis the season... Considering the decorations have been up in mulls for over a month, it is quite possible that it is almost “always the season.” Anyway, in my constant search for material to spout off about, for this issue, I have decided that a holiday-themed column might be palatable, in spite of my disdain for clichés. Besides, it’s Thanksgiving night, my dad’s teaching on the couch, and I’ve got some leftover apple pie; I’m in a festive mood, so here it is: What I am thankful for: A-Z.
1) What's your favorite word?  Purple
2) What's your least favorite word? Racism
3) What's your most vivid childhood memory? Spending the weekend with my grandparents, eating lots and lots of sugary foods on Saturday, waking up with a tummy ache on Sunday morning, then topping off the weekend by drinking "milk with a little coffee" for Sunday breakfast before heading off to Sunday School.
4) When you were a child, what did you want to be when you grew up? A doctor until I learned the meaning of the word cadaver.
5) What's your favorite smell? Fruity perfumes
6) What's your least favorite smell? "Milk with a little coffee"
7) What other profession would you like to try? Being a director of a Gospel Choir
8) What other profession would you NOT want to try? Being a doctor (I know how what a cadaver is...)
9) If you have a tattoo, what does it say (or depict)? If you don't have one, and decided to get one, what would it say (or depict)? I don’t have one. I’ll never have one. And, I hope my son doesn’t even think about getting one.
10) What's the best thing about your job? What's the worse thing about your job? The best thing is teaching, talking to, and being around students. The worse thing is trying to explain to non-professors that I work more than just the number of hours I stand in the classroom.
11) If you could talk to one person living or dead, who would it be? Jesus Christ
12) What's one little known fact about William and Mary School of Law that everyone should know? If you could appoint the next three Supreme Court justices, who would they be? Charles Ogletree, Lani Guinier, Roger Gregory
13) If you could talk to one person living or dead, who would it be? No:vel. The only thing God cannot do is fail. Because we are a state school, I can't answer this one (would violate separation of church and state)
14) What’s your favorite smell? Fresh air
15) What’s your least favorite smell? Fruity perfumes
16) What other profession would you like to try? Wilderness guide.
17) What other profession would you NOT want to try? Slaughterhouse worker
18) If you have a tattoo, what does it say (or depict)? If you don’t have one, and decided to get one, what would it say (or depict)? I have a tattoo that is an inch-wide band that runs the circumference of my son’s right bicep.
20) What's your favorite smell? "Absolutely no." If you could talk to one person living or dead, who would it be? myself
21) What's one little known fact about William and Mary School of Law that everyone should know? The alarm won’t sound if you open the stairwell door to the patio.
22) If you could appoint the next three Supreme Court justices, who would they be? Vicki Shultz, Lani Guinier, Alemane Selassie
23) Professor Kades’ Question: (stolen from George Carlin) If God is almighty, can she create a rock so large that she herself cannot move it?
24) Best: it’s lively and dynamic. Worst: see my upcoming novel.
25) What’s the best thing about your job? What’s the worse thing about your job? The worst thing is trying to explain to non-professors that I work more than just the number of hours I stand in the classroom.
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60) Because we are a state school, I can’t answer this one (would violate separation of church and state).
Amicus In-Depth Faculty/Staff Interview with Professor Stein

By: Andrea L’D’Ambra

1) What’s your favorite word?
Vacation.

2) What’s your least favorite word?
Epistemological.

3) What’s your most vivid childhood memory?
Sorry, that’s private.

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

5) What’s your favorite smell?
Citrus.

6) What’s your least favorite smell?
Recycled airline air.

7) What other profession would you like to try?
Billionaire Philanthropist.

8) What other profession would you NOT want to try?
Professional Bungee Jumper.

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

10) What’s the best thing about your job? What’s the worse thing about your job?
Learning, Grading.

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

12) What’s one little known fact about William and Mary School of Law that everyone should know?
The library’s wonderful video collection.

13) If you could appoint the next three Supreme Court justices, who would they be?
David Wilkins, Judith Resnick, and Chief Judge Robert Bell.

14) Professor Kades Question: (stolen from George Carlin) If God is almighty, can she create a rock so large that she herself cannot move it?
Absolutely.

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

Why?

Sex in the Essay

By Jeremy Eglen

When I heard that 1) the Amicus was declining in circulation and 2) the editors will print almost any submissions, I realized the solution: more stories about sex. Sex sells—ask Jerry Springer. If you need convincing that transsexual lesbian midget prostitutes could draw a crowd (and personal injury firm advertising), I recommend you set your VCR to record a week of Jerry Springer on local TV, or take a look at the latest issue of Cosmopolitan. No, I haven’t read it, but I guarantee it will contain “Seven Secrets for Driving Him Wild,” a survey to evaluate the sexual compatibility of you and your lover based on your astrological sign, and stories about parents/ministers/teachers/pets/sketchy-guys-with-webcams interrupting readers during amorous moments.

The phenomenon is not limited to the popular media. At one time, I was an English major, but I was a bad English major. It was not, contrary to what many of you are presently guessing, due to my inability to write. My professors consistently told me in one way or another that I didn’t get “it.” Many nights I lay awake trying to figure out with “it” was, when the idea hit me that maybe “it” is what “it” always is: SEX. My English professors managed to find sexual metaphor in just about everything. Shakespeare, it seems, was talking about sex even in the parts of the plays that your middle school textbooks left out. Classical writers thought about sex constantly and put little hints in their work so that the smart people would be in on the fantasy and the uneducated would only read a story about a guy who turns into a jackass. Romance poets—please, those guys would make Benjamin Franklin blush, and he was popular in France. The most disturbing was Beowulf, which the illettrate believes to be about a great warrior beating down monsters, but which the Doctor of English knows is about graphic, and I do mean graphic, sex acts.

For my next essay, I decided to throw in analysis of sexual metaphors that were clearly and obviously within the work. The essay was on a poem by Coleridge about a musical instrument that sits in the window and is played by the wind. I went all out, got as graphic as my Midwestern upbringing would allow, and wrote about things that I thought were completely absurd. The result, as you might have guessed, was the best grade I got in an English class during my college education. As I doubted the possibilities of my future success as a romance novelist, I changed my major to the subject which guaranteed an absence of sex in any form: computer science.

Yet, as law school finals approach once again, my thoughts have turned back to English. Since Law is much more like English than Computer Science, I recommend that everyone fill his or her exam responses with sexual references. It works for Jerry Springer, it works for Shakespeare, and it can work for you. If you think about, legal concepts abound with erotic possibilities (and you can frame that sentence in gold, since it’s probably the only time it’s ever appeared anywhere in the history of mankind). Send your mind to the gutter (and we both know it was already there) and read on with suggestive eyes.

Take Civil Procedure, the bane and boredom of first year law students everywhere. Civil procedure is mostly about jurisdiction. To have Personal Jurisdiction, you must first have Significant Contacts (get it—“personal jurisdiction” and “significant contacts”—oh don’t groan). Significant contacts require that a person avail himself or herself of the Benefits of the given jurisdiction. The trial itself will follow a familiar pattern. First, there is Discovery, where both sides ask questions and find out about one another’s claims and goals. There are various pleadings which are allowed in Discovery, including Dismissal. Pardon my generalization, but it seems that female judges tend to prefer a longer period of Discovery. Then there is a Trial. The Trial may be over quickly or may take some time, depending on the mood and efforts of counsel. At the completion of Trial, the judge delivers a decision, and any appropriate relief. Note that some kinky people may prefer uncivil procedure, see unreasonable search and seizure below.

Property was immortalized in a song by the learned artists Naughty by Nature.

Interaction with other people’s property is a touchy subject, which requires a great body of law. For a Gift of property to be valid, there must be Delivery, Intent to give, and Acceptance. Some conveyances of property may be subject to conditions or time limits. The failure to use property correctly may result in its Reversion to the original owner.

The Constitution itself contains guidelines on the Quartering of Soldiers and requirements for reasonable Searches and Seizures...you get the idea. I hope this will make studying for exams a bit more focused, whether you’re an English professor or just someone whose sense of humor got stuck in junior high.

Criticism, comments, doubts about the maturity of the author, and suggestive metaphors for Intellectual Property may be sent to jeglen@alum.dartmouth.org.

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Burning Speech, continued from page 4


Because our innermost core American value is that we agree to disagree about everything, we cannot afford to lose any voice, even those we love to hate. Maybe especially not those we love to hate.

So what’s the answer to my Black v. Commonwealth conundrum? We get used to cross burning in the Commonwealth! Law enforcement forgets about protecting citizens from harassment? We use ordinances banning bonfires in neighborhoods to combat the Ku Klux Klan? We wait for violence to ensue before we act? Certainly not.

The answer, so it would appear, lies in careful drafting. Yes, drafting: we talk about it in Federal Income Tax, in Family Law, in National Security Law, in Criminal Law, even in Legal Skills. Better drafting can fix this problem. The courts broadly at the features of a successful statute throughout its opinion. The new statute has to focus on intimidating conduct generally, without picking cross burning as its sole target; it has to focus on intent to harass and intimidate and on acts committed—such as vandalism, trespass, unlawful brandishing of firearms and assaults—rather than just on symbolic expression; and it has to draw the line at fighting words rather than at setting a cross alight. It will be a bit more awkward than the cross burning statute, but it will strike a better balance between protecting the populace and protecting free speech. When they draft it, I’ll try to like it.
Don't Steal My Money
By April Thompson

At a recent student meeting, the topic of tuition arose. Some students complained that it should be easier for those who begin school as residents of other states to be granted in-state tuition status after their first year. I think the students thought it was unfair they should have to fork over out-of-state tuition after living in Virginia for a year and intending to stay here two more years while they finish law school. I couldn't disagree more. (I am not sure whether the residents were referring to those who move to Virginia for school and intend to stay here, or those who live in-state only while attending school. I refer only to the latter.) Not only is it fair to expect true non-residents to pay out-of-state tuition; it is inappropriate to do otherwise, for at least three reasons.

First, Virginia residents financially support all Virginia public schools, including William & Mary and Virginia. Virginians literally subsidize the lower tuition fees of in-state students. Some W&M and Virginia students have lived in Virginia and paid taxes here their whole lives. It is only fair that those students should reap the benefit of their own public education system, at a cheaper price than their non-resident colleagues.

This is true for every state with public higher education. Let residents of each state weigh their options, in-state and out-of-state, carefully.

Second, were William & Mary to grant in-state status to anyone simply living here while in school and not intending to indefinitely reside in Virginia (the legal standard for achieving in-state status, see Virginia Code Section 23-7.4), our school would lose a significant amount of revenue. We can't just magically write off that lost money. It has to be recouped somehow. Everyone's tuition must go up; the state must get more money from its residents; private donations must increase, or resources will have to be cut. Period. The idea that William & Mary should, or even can, simply hand out in-state tuition rates to anyone living here for a few years while in school is naive at best.

Third, and most importantly, applying for in-state residency status when a student does not actually intend to live in Virginia for the indefinite future (again, the legal standard) is unethical. For law students especially, this seems a flagrant and cheap violation of the honor code and professional ethics. These students are defrauding the state of Virginia and cheating legitimate residents. They cause everyone's tuition to rise. Again, I am not referring to students who come from other states and then decide to make Virginia their home beyond graduation. But those students who know they intend to grab their discount diplomas and run are willfully defrauding our state and should be ashamed of themselves... William and Mary law students especially.

The Amicus Staff's Guide to Holiday Gift Giving!

Tim Kollas and the rest of us here on the Amicus staff have decided to institute a new article series for the paper entitled "Staff Picks." Each issue, we will pick a topic, be it favorite movies, books, etc. and each Amicus staff member will chime in with their two-cents worth on the topic. For this inaugural article, and it being that time of year and all, we've decided to bring you the Amicus Staff's Guide to Holiday Gift Giving, either great gifts we've gotten or great gifts to give:

The best gift I've ever gotten: For our first Christmas together, my wife made the emblem of a warm fuzzy: apolar fleece pullover with a hood. It's soft. It's huge. It's like wearing a blanket. I still wear it all the time. She wore it all the time. We wear it together all the time... no, never mind that. It's proof that the best gifts are homemade.

Tim Kollas

I'm still waiting for my pony.

Deborah Siegel

Savvy pick for DVD/CD player gift: APEX AD-1000. $74.95 at Wal-Mart (special deal...usually around $84.55). Plays anything: DVD's, MP3's, Music CD's, CD-R's. Nothing fancy, but you can't beat the price.

Andrea L. D'Ambra

Fruitcake - why? Because it has a half-life. Because the number of fruitcakes in the universe is a constant: they just get moved around over the holidays. They make excellent doorstops, personal defense mechanisms, and boat anchors. The perfect example of "better living through chemistry." [Ed. And a great Fatboy Slim album as well.]

Michael Thompson

I believe I share this wish with a large portion of SL's when I say, all I really want this year is a JOB!!!!!!!!!!

Char Rieck

Well said, and God bless the creation of the welfare state. And to this I would add, a nice piece of W&M Law clothing apparel from the Campus Shop, or other fine haberdashery. It goes especially well with the parents, who take immense pride in wearing such articles around town and proving all those old guidance counselors and probation officers wrong... even if you are trying to be a lawyer, it still harkens back to the petty theft predictions of my childhood.

For soon, it will be the dawn of the grandest of scales!

Brian T. Miller

Staffy you'd like but can't bring yourself to buy:

1 - "W&M Law" sweatshirt, tee shirt, cap, etc.
2 - a four-color pen to finally give book briefing a try
3 - law flash cards
4 - that Enya CD
5 - the $8.99 six-pack of imported beer you really want to try
6 - the $120 diploma frame (just in case)

Gary Abbott

When I think back over the gifts I have received during the holidays, I realize that the true value of any gift extends far beyond the price of the object. The true gift is the presence of that person in my life.

The actual gifts I receive from my family members or friends are symbolic of a much deeper relationship, which cannot be measured in dollars or cents but in many ways is completely priceless. I always wonder at how my friends and family members have an intuitive sense of exactly what I need. For instance, several years ago I was contemplating buying myself a set of pearl earrings and a pearl necklace. I was pleasantly delighted that my brother gave me the pearl necklace, and my sister-in-law picked out a lovely set of earrings. Had I gone and bought these items myself, no doubt I would have picked out much less aesthetically pleasing items. Obviously I hadn't said anything to them about it, and it was completely unexpected that they would give me exactly what I wanted. I never make out a Christmas list. My family and friends always seem to figure out what I either need or want, whether it is a book or a luxury item. I have never received a present that I haven't found in some way to be useful, meaningful, or educational. "The truth is that in many ways they have a better sense of what I enjoy or need than I do. I guess I have been lucky with these gifts, but in many ways I have been extremely fortunate that the special people in my life know me so well and have an intuitive sense of my personal taste. Sue Henshon

In high school, a friend of mine and I had a reputation for being at the exact opposite ends of the political spectrum. She was a Republican, and I was a Democrat (with a particular dislike for Ronald Reagan). We would actually take over our government and history classes with our political discussions. Our friends would encourage us to do so frequently. For our senior year, she was my Secret Santa. The gift I got: Ronald Reagan's autobiography. I still have it today...

Anonymous

I thought of the perfect gift I would like to receive this Christmas (if I can't say ***, screw is a distant second):

I'd like the gift of no more of the in-class, face-to-face, kumbaya pedatory and concluding remarks. The more irritating include, "Maybe this is just my warped mind, but...", "Well, like, this is just my opinion, or whatever, but...", and "I'm not sure if this is right, but...". If you can't be epistemologically unique. "Procedamus in pace..." or "...but Allah is great" ("a la Disraeli") or ". . .** the lot of you." [Ed. That's the Christmas spirit.]

S.L. Rundle

My first Christmas with my boyfriend's (now husband's) family I received a memorable gift from his mom. She gave me a pink, floor-length flannel nightgown. It had a high collar with lace trim and heart-shaped buttons. It just screamed sexy! Rebecca Godgme Ebinger

The best Christmas gift I ever received would have to be the three-speed blue Schwinn bicycle I got the year I was seven. Even though I had picked it out in advance, it was still the most exciting Christmas morning I remember from my childhood.

Plus, I still have and use the bike today!

Adrienne Griffin

My birthday was just last month and these were my favorite gifts: a stereo with CD burner, George Foreman grill, silver horseshoe charm necklace. So I don't really have any specific Christmas requests! ...Well... a job might be nice.

Brooke Heilborn

When I was a small child (around 7 or 8) my father and uncle owned a cabinetry factory where they made hot tubs, gazebos, and other outdoor wooden structures. Well, one Christmas, after spending the morning with my mother's relatives, we returned home to find a large roundwood dining table waiting for me. It was very minimalist in that it had several large open rooms and cutout doorways, but it also had balconies and an staircase and it was huge (2.5 feet tall, 3.5 feet long), and it was special because it had been designed just for me. Barbie's Dream House had nothing on this thing!

Katie Riley

So there you have it, the inaugural addition of Staff Picks! Hope this inspired you as the shopping season approaches. Or perhaps got you in the mood, filled with holiday cheer, and remembrances of years gone by! Thanks to all who contributed their ideas, and look forward to the next installment in 2002.
The Sky Is Falling...

By Brian Miller

Literally. For one night at least — that night being the early morning hours of November 18, 2001. I had watched the movie *Casino* last Friday afternoon, and asked my roommate the name of the book it was based on. Two minutes later, he handed me a copy of the book, by the same name, and 36 hours after that. I had finished reading an incredibly engrossing tale. Fiction can never compete with real life: But I digress. The point is, had that book not been so hard to put down, I would have missed one of the most amazing natural phenomena's in the universe.

For the whole week prior, as I always do, I had read a history of the Leonid meteor shower that weekend. But unlike almost every year prior, I actually remembered to go do it, thanks to the fact that I was sitting wide awake in bed at 3:30 a.m. on Saturday morning, having just finished the aforementioned book. I had my lights off, and my contacts out already when it dawned on me that it was prime meteor viewing time.

I went out to my balcony porch, in my boxers and a t-shirt, with my out-of-date glasses on, and was greeted by the most amazing "shooting star" I have ever witnessed. It seemed to be almost a half inch thick, and was at least a good twenty feet long, going right across the top of the sky. The gaseous trail lasted for almost 8 seconds! Absolutely unheard of! I knew it was going to be worth the hassle of getting dressed, and putting my contacts back in, and I’m so glad I did.

I had heard rumors that whole week that this annual light show was going to be quite possibly the most spectacular shower of our lifetime. Official counts didn’t quite reach that level, but for me personally it was, and then some. As someone who has spent an unhealthy amount of time gazing into cold, cloudless nights, pondering the wonders of deep space, I can say that this year was unlike any other. For those of you who were brave enough to weather the cool temps, and to stay up until nearly the break of dawn (which, cruelly, is the optimum time for viewing meteor showers) you were treated to awe-inspiring sensation as hundreds of thousands of specks of light came alive and leapt from the dome of space.

The mathematics of a meteor shower are baffling enough. What you generally are witnessing when you see a "shooting star" is a speck of matter, generally no bigger than a grain of rice, sometimes smaller than dust, hitting the upper reaches of earth’s atmosphere, at astounding speeds. We’re talking about 45 miles per second! That’s 162,000 miles per hour, or 6,480 times the average speed limit in the Burg! The physics of the encounter are such that small fleck of space dust can create an explosion and chain reaction bright enough to be seen by the naked-eye here on earth. A meteor shower is simply the Earth’s orbit crossing paths, at clockwork intervals, with the tail end of a comet, in this case Temple-Tuttle, and colliding with all the particles that make up the comet’s tail. At peak viewing year this, meteors were hitting the atmosphere at the rate of 1,250 per hour. Truly spectacular.

But even more amazing than the speeds and sizes involved, are the physical manifestations of these collisions. On a good night, in prime viewing conditions with minimal light pollution, which does not describe Virginia by a long shot, you may see one or two of these streaking flashes of light. On this evening, however, in the half-hour that I was able to observe, I must have seen well over 100 different meteors. And I could only see half of the night sky because of my house and a tree obstructing the view of the rest of the horizon. Plus, with all the light pollution in this area, I was only able to see the brightest ones, a mere fraction of the actual meteors.

But the ones I did see were beyond description. They came at differing speeds, from all places in the sky, in all directions. Some were so barely visible that you thought your eyes were just playing tricks on you, while others left neon trails that lingered for 5 seconds or more. I even saw, on different occasions, double shooting stars. Two would appear side by side, and run parallel across the sky before burning up completely.

As the night progressed, I couldn’t help but contemplate a thought that always creeps into my head whenever I view any sort of natural phenomenon like this: I try to imagine what it must have been like to have been one of our ancestors, hundreds of thousands of years ago, witnessing something like that? Imagine laying in the pristine prairies of North America, or sitting on a rock in the plains of Africa, just starting to grasp hold of how incredibly different you were from every other life form on the planet. How could they possibly have characterized, much less explain or rationalize, looking up into the usually ultra-static night sky, and suddenly seeing a meteor shower of this magnitude?

This, my friends, is the origin of every religion and mystic belief system throughout world history. You can keep your Garden of Eden, I know better. Spectacles like this are what sent us looking for answers, order, religion and reason. Natural entertainment like I witnessed that night inspire thoughts and emotions on a whole different level. God has developed unique ways of offsetting the daily miseries of human existence. This was but one.

And as I finally crawled into bed that night, just after 4 in the morning, cold, and sore-necked, but utterly satisfied, I tried to decide who I would have rather been that night: a carnivorous homosapiens struggling for answers in a hostile-filled primordial jungle, or a twenty-first century child of the scientific revolution, with knowledge and understanding of what makes things like meteor showers happen? Before I could make up my mind, I drifted off to a pleasant night’s sleep.

More Clip 'n' Save Marshall-Wythe Trading Cards! Collect them all! These folks show us how Marshall-Wythe students, in addition to being bright and scholarly, can git down with their bad selves!
Chasing the Diversity Value, continued from page 11

ically wrong with “values” in general or “diversity” in the specific; they are merely empty words of art that naively avoid men­
tion of morality in the first case and discus­
sion of misogyny and racism in the second.

There is no reason to believe that on

single, well-qualified (as compared to the other

2,446 applicants) woman or minority o

woman minority was denied admissio

with this year’s class. If there were, I woul

be more than happy to sign the petition or help with the lynchings or whatever. But the

ABA, and the diversity maven at

large, seem to be saying, “You don’t have enough “diversity” in your applicant pool, and you are to blame for it.” Accepting, arguendo, that no women or minorities were denied admission because of their application photo, what else could the ABA expect?

Before going on, please take a moment to list the ways “diversity” will have made you smarter or custodian of more legal knowledge after three years of studying law. Don’t use the words “perspective” or “understanding”.

1. 
2. 
3. 

Trick question. The gender and racial

makeup of the student body and faculty has no impact on your education, not in comparison to other unsavory factors such as effort and innate intelligence. Also, stressing “diversity” is insulting to the “divers.”

Walk up to a study partner or profes­
sor of a different race or gender and say, “Thanks for being [race/gender]. I learned so much more from you than I would if you were [race/gender].” If you actually do this, expect to be punched in the schnozzle or flunked, because you’ve said her individual worth isn’t based on her hard work, broad learning, intelligence, or killer smile, but rather on her group club membership.

The supposed answer to the question

ending the second paragraph comes from Courtney Malveaux’s “All Students Should Find It In Their Best Interests To Support Diversity,” from the Sept. 2001

Student Lawyer. (Neither that article, nor the Martha Barnett article to which it was responding, nor any beef-up-the-diver­
sity writing I have seen sites any authority that “diversity” improves education. Nor does “diversity” diminish education. It is just not relevant. I read “All Students” three times without finding any evidence for the title.)

“Minorities don’t always see a wel­
come mat at the door... We have a duty to

start removing these hurdles.” The hurdles

mentioned are three: being poor, not being a legacy, and not signing up for LSAT prep courses.

What to do about this?

“Why not go after the untagged tal­
ented [minorities] as they’re coming up through high school and college?... Why not expose a group from a predominantly minority high school to a day in law school? Provide an affordable LSAT instruction for minority college students could build goodwill for your law school.”

There are two difficulties with adopt­
ing this suggested duty. First, an elite law school should be sought after by its appli­
cants, much in the same way a lady should be sought after by her suitors. Reverse the roles and you either stop being elite or a lady.

Also, there are costs involved in

grooming students through high school and college so that they will not only be interested in W&M but also suitably LSAT-­
ed. All those paying tuition will bear this cost, regardless of benefit. Second, this is the most racist thing I’ve heard up to my recent introduction to Archie Bunker. Why on earth are students in a “predominantly minority high school” more deserving of targeted recruitment, encouragement, and assistance than the impoverished students of a non-minority school in some coaltown of Appalachia? Why on earth are non-­
minorities less entitled to affordable LSAT instruction than minorities? Why is build­
goodwill with disadvantaged minori­ties more important than building goodwill with disadvantaged non-minorities? The members of the second group take no comfort in knowing their group is propor­
tionally over-represented in higher education. This conceptualization of duty raises a problem because it has no natural limit. There is simply no fair way to pick between the down trodden, and everyone cannot be aided.

The problem, it should be clear, is that “diversity” forces us to think about people in terms of objectively meaningless, stere­
totypical groups instead of as intelligent and capable individuals. It is as bad to want someone in your school because of his skin color or sex as it is to lock him out for either reason. To be fair, the observa­
tion of racism above should be tempered by noting that there is not much critical thought given in academia or the media to the practical consequences of chasing “diversity” willy-nilly.

“Law schools,” wrote Malveaux, “have two choices. They can continue to compete with each other over a limited pool of applicants... Or they can recruit new, tal­
ented applicants no one else has gone after yet.”

Any new, talented, undiscovered

woman or minority who wants to go to law school and doesn’t understand she will be admitted to the school of her choice is either not so talented after all or has been living under a rock. And, despite the either-or-fallacy presented, there is a third choice. Next year the admissions board could put the 2,446 applications in a pile, and choose the 200 most qualified appli­
cants. It’s brilliant! And it would create diversity! Because no other law school does this! Yes, I am aware sentence frag­
ments and exclamation marks are bad writ­ing! But I’m mad! Partly because I just received an OCPPE-mail fora LS$10,000 summer internship for which I was invited not to apply because I am an oaf.

In the main, though, this column was prompted by my running out of fingers to count the hokey-diversity columns from the Flat Hat, Amicus Curiae, and Student Lawyer. I’ve ten fingers left to count any with a valid point.