Not Wythe Standing (Vol. 6, Issue 1)
On Halloween law students seek tricks, treats, feminism

Halloween weekend started off with a bang. With no official school events planned for Halloween night, students were left up to their own devices. Numerous students threw parties and a few gave out candy to trick-or-treaters or took their own little ones door-to-door. Others attended multiple parties, and some students practically spent the weekend at the bar of their choice. Regardless of what students got themselves into, one thing is clear—there was no shortage of things to do.

One of the first things students were able to do on Halloween weekend was attend an event called Ghost Stories. The Law Revue event was the second of its kind, and it was open to all law students. Those attending huddled around a bonfire and made s’mores while watching members of group perform various scary pieces.

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Sarah Merrill | NWS
Influences

Our Staff’s Current Cultural Fixations

The Power of Galmour, Virginia Postrel

What makes an image Glamorous? Postrel says it’s the ability to capture viewers’ desire for an idealized reality. She describes how it’s made, how it misleads and why it changes through time. A must-read for anyone who’s been ever been taken by a graven image.

Piñatas

Maybe you’ve forgotten your eighth birthday party, but you probably remember the valuable life lessons: first, that what really counts is on the inside, and second, that donkeys should be regarded with suspicion. Also, engineering skills.

Better Than Sex Mascara, Too Faced

Love this for its power to seemingly stretch lashes. Online reviewers note that multiple layers give the impression of falsies without the hassle. A great gift, even if just for yourself.

2013 Hugues Beaulieu Picpoul de Pinet

Crisp and highly acidic white made from a Mediterranean French grape nicknamed “lip stinger.” Pale straw in color with strong notes of Meyer lemon, Granny Smith apple, and unripe honeydew. Perfect as an aperitif. 6.99 at World Market -Alex Kalyniuk

Crochet

My friend, Chris, invites a small group of friends over for “Crochet Thursday.” By my second project, I had gotten the hang of it. I started producing scarfs & headbands within a few hours, and now I find myself crocheting in every spare moment I get. -Sarah Merrill
On Saturday, September 27th, many law students took a well-deserved break to attend the Student Bar Association’s annual Fall Formal dance. Approximately half the student body gathered in the ballroom of the Sadler Center to dance and socialize until after midnight, when the festivities continued at the several bars across the street.

Taking place about a third of the way through the semester, the dance provided an opportunity for students to relax and enjoy a carefree evening with their classmates. Although some students were afraid that the event would be less formal than years past, as it was being held in the Sadler Center rather than a hotel, the event itself was lovely. SBA board members set up and decorated the morning before the event, and provided hors d’oeuvres and beverages. The Public Service fund also helped facilitate the event, with members providing bartending service throughout the evening. The dress code was shifted from “casual” to “semi-formal” in response to student feedback in the weeks preceding the event, and the student response was overwhelmingly positive. The crowd was elegant, apparently enjoying the opportunity to dress up, and the dance floor was crowded all night as students enthusiastically joined in line dances and even a few scattered ballroom steps. “Fall formal was exactly what I’ve come to expect and enjoy about law-school-wide events,” says 2L Aaron Colby. “Despite the fact that we dress up, the attitude is relaxed, casual, and comfortable, and it’s always great to see everybody having fun in that type of setting.”

The SBA took precautions to ensure that all attendees remained safe throughout the evening, providing designated drivers and posting the phone numbers of cab companies throughout the venue. Despite the free-flowing alcohol, students remained responsible and safe throughout the evening. SBA Vice President Sarah York said, “I think I speak for the entire SBA Board when I say that we were pleased with the end result and we are glad that people had a good time.” This pleasure with the event was mirrored by the student body. As 1L Emily Carapella says, “I had a really good fall formal; it was really fun seeing everyone in one place and having a reason to get all dressed up!”
High Court preview packed with panels

From the left, Joan Biskupic, Allison Larsen, Tara Grove and others act as justices in a mock hearing on Halbig v. Burwell, to be decided this fall. Ge Wu | NWS

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On September 20th and 21st, William & Mary Law School's Institute of Bill of Rights held its annual Supreme Court Preview. For those of you unfamiliar with the Preview and what it does, it is a unique and prestigious event that offers students, faculty, and practicing attorneys a glimpse into the upcoming Supreme Court's docket through the eyes of expert panelists. This year, the Preview had an exemplary list of panelists consisting of distinguished law professors, current and former judges of U.S. Courts of Appeal, and journalists from the New York Times, Slate Magazine, and SCOTUSblog. There were also several panelists with experience litigating before the Supreme Court.

Though distinguished panelists are nothing new to the Preview, there were a few major changes to the event this year. Most noticeably was that cases in two of the most anticipated panels—Moot Court and Same-Sex Marriage—had not been granted certiorari, and therefore, were not actual previews of the next Supreme Court term.

The Moot Court case, Halbig v. Burwell, concerns the Affordable Care Act and whether the act restricts the section 36B subsidy to insurance purchased on exchanges established by the State as opposed to those established by the Federal government. It has become a hot-button issue for legal scholars because the opinion issued in another case, King v. Burwell, directly conflicts with the Halbig ruling. This has caused much debate about which decision is correct and how the Court will decide the issue, if it decides to take the case at all.

With this backdrop, this year's Moot Court was particularly thrilling. Audience members had the opportunity to listen to arguments from Michael Scordro, an attorney at Jenner & Block LLP and former Illinois solicitor general, and Andrew Pincus, an attorney at Mayer Brown LLP who has argued before the Supreme Court twenty-three times. After listening to the contentious arguments and relentlessly questioning the litigators, the Preview's own "Supreme Court" returned with a 5-4 ruling that upheld the contested provision of the Affordable Care Act.

Connor Garstka, a 2L who attended this year's Moot Court session, said "This year's Moot Court was great! It was very gripping." Sarah York, another 2L, said "It was really nice to hear arguments about such a confusing case. It helped to clarify the issue." When asked how it compared to last year's Preview, Connor said, "They were both great. I was a little disappointed that it wasn't in the courtroom this year, but that's understandable because it was under renovation at the time."

Following Friday night's panels, panelists and distinguished guests were invited to socialize and fiercely debate with one another over food and wine at the annual Supreme Court Preview Dinner. Five lucky students were invited to attend because of the work they contributed to the Preview, and it proved to be an invaluable experience for them. "I sat with Judge Judith Barzilay, Patricia Millett, Jeffrey Fisher, and two of William & Mary's very own, Professor Dwyer and Professor Stern. I got to hear them trade war stories about their appearances before the Supreme Court, and I was surprised to hear that even though they're skilled and experienced oral advocates, they were still nervous. I was really glad to have the opportunity to hear those stories," said Connor. Violet Boggs, a 3L who worked as a student editor for the Preview said, "I sat with a few other students, as well as Professors Griffin and Larsen, Adam Liptak, Paul Smith, and a few others. I also had the opportunity to pick up Judge Jeffrey Sutton from the Norfolk Airport beforehand, which was quite a treat. He was a very humble person who was really great to speak with."

The following day, panels covered topics concerning civil rights, business, the First Amendment, the Roberts Court, election law, and same-sex marriage. Many students and panelists were excited that there was a panel on same-sex marriage this year, even though the Supreme Court did not grant certiorari for either of the cases discussed. Julie Tulbert, a 2L, said, "I was really happy to see the room completely filled with students eager to hear the panelists. I'm not surprised since many of the panelists are currently involved in marriage equality cases. A lot of audience members also asked intriguing questions. The only thing I would have changed is the makeup of the panel—I would have liked to see more diversity."

When asked if they would recommend for students to attend the Preview next year, the students I spoke with were all in agreement. "Yeah, I definitely would. It's very important to be part of an informed citizenry, and the Supreme Court Preview helps ensure that you are," said Julie. Connor said, "Definitely yes. The Preview is one of the most exciting events that happens at the law school all year. It's an amazing opportunity not only to see great legal minds spar with each other, but to engage with them yourself."
Privacy primer: Snowden leaks, NSA and you
In farewell opinion, columnist recaps recent revelations regarding digital privacy

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On January 17, 2014 in a speech on National Security Agency (NSA) phone surveillance President Obama stated, “[America is] held to a different standard precisely because we have been at the forefront of defending personal privacy and human dignity. As the nation that developed the Internet, the world expects us to ensure that the digital revolution works as a tool for individual empowerment, not government control.” America, by way of the NSA, however, has arguably undermined personal privacy, disempowered individuals, and laid the foundation for an unprecedented level of government control. The dramatic rise in the surveillance power of the executive branch poses a threat to the judicial branch, because the Supreme Court of the United States has virtually no ability to effectively oversee the executive branch, especially intelligence agencies such as the NSA, in matters of national security, despite popular rhetoric about the power of the judicial branch to “check and balance.”

President Truman established the NSA in 1952 to collect and process intelligence information for national foreign intelligence and counterintelligence purposes. In 1953, the Supreme Court in United States v. Reynolds held that the executive branch could assert a “state secrets” evidentiary privilege against producing documents that could expose military secrets, forcing courts to rely entirely on the good faith of the executive branch to prove evidence of potentially unconstitutional executive action. In 1973, the Supreme Court in U.S. v. U.S. District Court unanimously held that warrants are required for domestic intelligence surveillance. In 1975, an investigation by the Senate “Church Committee” first uncovered illegal warrantless domestic surveillance by the NSA and recommended reforms. In 1978, the Foreign Intelligence Surveillance Act (FISA) was signed into law with the intention of protecting U.S. citizens from domestic surveillance. Such efforts to curtail intelligence collection and protect the privacy of Americans, however, would prove toothless in the 21st century.

Although in the late 1990s the NSA attempted to develop programs to collect and analyze the communications of U.S. citizens that respected privacy laws, such attempts were abandoned after the September 11, 2001 terrorist attacks in favor of nearly unlimited intelligence collection. In the words of former NSA analyst J. Kirk Wiebe, “The post-September 11 approach was that NSA could circumvent federal statutes (like FISA) and the Constitution as long as there was some visceral connection to looking for terrorists.” President Bush signed off on surveillance operations so sensitive that many senior national security officials knew nothing about them. Publication of a New York Times report titled, “Bush Lets U.S. Spy on Callers Without Courts,” was delayed for a year, likely due to intimidation from the executive branch. After 2002, the NSA began approaching telecommunications companies, such as AT&T, Verizon, Sprint, BellSouth, Google, and Yahoo, and later software manufacturers, such as Microsoft and Apple, to request that they voluntarily hand over customer data. After those companies began demanding court orders for such information requests, the Foreign Intelligence Surveillance Court (FISC) began routinely approving NSA warrant requests and, ultimately, dragnet surveillance. Despite public criticism from former NSA analyst William Binney and others since 2002 that the NSA has wasted tens of millions of dollars on frivolous programs that routinely violate the Fourth Amendment rights of U.S. citizens, the NSA has continued to expand its surveillance domain.

In April 2012, Edward J. Snowden, a former Dell Inc. employee and NSA contractor, began downloading information about NSAs multifarious surveillance programs in preparation for the largest global surveillance disclosure in history. On June 6, 2013, the first information leaks were published simultaneously in the U.K., via The Guardian, and in the U.S., via The Washington Post. We have now learned that the NSA, through a combination of sharing, selling, purchasing, intimidating, and coercing, has developed a vast surveillance network that encompasses most of the world and includes the medical, legal, financial, and other personal information of government officials, corporate agents, regular citizens, friends, and foes alike. The NSA has physically tapped the fiber-optic cables of several global telecommunications companies. The NSA has also actively sought to embed security exploits in virus protection software and to lower encryption standards around the world, which benefits hackers at the expense of anyone using a computer to store sensitive information. Some documents even suggest that the NSA diverts computers purchased online to secret workshops where they are infected with malicious malware that grants the NSA remote access to the computers’ hard drives, microphones, and webcams.

Most recently, concern has been raised about the impact of NSA surveillance on attorney-client privilege. The American Bar Association rules of ethics require lawyers to “make reasonable efforts” to protect con-
Nerve required for LLMs to scale language barrier

Networking, common law stike non-English speakers as foreign concepts

Williamsburg, this small, quiet, and relaxing place puts me in a good mood to deal with the pressure from law school. It has been a month of law school life, and I find that pressure comes not only from academic performance, but also social activities. Though I cannot tell much about my other peer LLMs’ feelings in regard to these two topics, for me, social communication frustrates me more than in-class performance. But let us first talk about the latter.

“For students like me, language establishes a wall that prevents us from acting as successfully in academia”

This year, students, scholars, and lawyers who come from nine different countries constitute the community of Class of 2015 LLMs. Some speak English as their native language, or at least are capable of speaking and writing fluently. But for the students like me and the 30 other LLM students who come from China, language establishes a wall that prevents us from acting as successfully in academia. For instance, compared to students who are from English-speaking countries, more time is required for us when reading assignments, as well as understanding and reviewing the materials the professor taught in the class. Another academic challenge is the adaptation to the common law legal system for LLMs who come from civil law countries. The United States and other common law countries place greater emphasis on the precedents than the statutes and regulations. Changing one’s thinking pattern from one to another requires time.

Moving on to social communication. It did not take much time for me to find out the differences in social methods between my home country and America. Here, people love to talk, say “hello” to acquaintances on the street and at restaurants, and introduce themselves to people sitting next to them. At first, I attributed my social awkwardness to the cultural difference and my introverted personality. What surprised me further is when I noticed that my fellow LLM classmate share the same feelings. Uncomfortableness started to grow, accompanied with deeper frustration. On the one hand, professors and leaders of student organization keep telling me to get out of my comfort zone and devote more energy into the social workshop; on the other hand, confidence and courage, which are required for the involvement in the law school community, are exactly the treasures I do not possess. But time does not wait for such delicate considerations. Seeing my JD classmates already building up their social circle, I realized it is time to do something. I started to put social events on my calendar, talk to people sitting next to me, apply for board positions of student organizations, and seek advice from professors.

Having a social networks is extremely helpful when you apply for a job at a law firm or with a court, but you need to work on it from the very beginning of law school. At first, LLM students are eager to make JD friends through cookouts, workshops, or the events that are particularly designed for us to get to know each other. As time goes by, I noticed everything reverts to point zero; most of us still stick within our groups and do not talk much with JD students.

Thanks to smart phones with constant internet access, the art of conversation is dying, many people are now wrapped up in their tech bubbles and hardly anyone is talking to anyone else anymore. The irony is that according to a study from the journal of Experimental Psychology, commuters in Chicago were asked to either talk with a stranger on a train, or sit quietly alone, or just do whatever they would normally do on their commute. Based on the survey taken afterwards, those who engaged with strangers had the most pleasurable experience and those who remained solitary had the least enjoyable experience. These answers were compared with another group that did not participate, but instead had to predict how they might feel in each situation. This group thought talking with strangers would be the least enjoyable, by far. Personally, I feel the same way because every time I try to chat with JD students, lots of concerns just appear in my head like “What if he or she does not like talking to me?” or “Would it make me look strange?” But experience speaks the truth—I do feel happier and find such communications more enjoyable. One way to get over this wrong perception is to practice reaching out. Alumni are the greatest social resource that you can exploit and gain benefits from, both in law school and career life. The best example is the recent Lawyers as Leaders Conference, which shows that alumni continue reach out after graduation, share ideas and insights, and offer advice.

All in all, now I feel more comfortable with living and studying in America than I did in late August. The only solution to release the pressure from academic performance and social life is to take the initiative and do your best to enjoy.
PSF party doubles in size

Student's gather around the fire at Law Revue's annual Ghost Stories Event  Courtesy of Ashley Johnson

Halloween, from COVER

es. "We had about twenty to twenty-five people [show up this year]," said Ashley Johnson, a third year joint JD/MPP student. "It was a real success," said Kat Harris, a 2L. "I think my favorite part was that the sun set before a lot of people got to do their performances. They couldn't see their scripts anymore, so they had to read from tablets and phones. It gave everyone a really creepy glow!" she said. Among the performers were Jane Ostdiek, a 3L; Michael Wyatt, a 2L; Kat Harris, a 2L; Vanessa Riley, a 1L; and Karl Spiker, a 1L.

The next day, the Women's Law Society (WLS) held its first annual costume contest. In order to participate in the contest, students, male or female, simply needed to dress as their favorite feminist and upload their photo to Facebook or Instagram with the hashtag feminismstoscary. Up for grabs was a gift card to Chipotle. Some of the costume entries were quite elaborate—there was an Amelia Earhardt, a Frida Khalo, and a Hermione Granger. There was even a Daenerys Stormborn of House Taragaryen who was portrayed by a male 1L.

"The event was a great success, and we hope to make it an even bigger one next year," a WLS executive board member said. "Though as of today, November 3, we have yet to announce the costume winner, we have plans to do that shortly. We want to send the submissions to our faculty advisor so that a non-biased party can determine who wins."

The weekend came to its peak, though, with the annual PSF Halloween Party later that night. This year, over two hundred people attended the party, which is rumored to be doubling the amount that attended last year. A party of that magnitude needed quite a bit of advanced planning. According to Janie Brittan, a 2L who acted as a "catch-all organizer," PSF began planning for the party three weeks in advance. "[There] was a decorations subcommittee … that painted all of the wine bottle centerpieces. [There was also a] food committee that solicited local businesses to donate to our party—even a pumpkin patch!" said Janie. "We also had a huge variety of food donated thanks to all the hardworking 1Ls. They did an excellent job—especially whichever 1L that got the five boxes of Duck Donuts!" she said. Altogether, the event required 25 people to volunteer to help table, collect money, operate the kegs, and mind the food.

Throughout the party, attendees were able to vote for those wearing the best individual and group costumes. This year, Andy Iammarino won the individual costume category and the 15 pound treat basket donated by Trader Joe's that went along with the title. The Seven Deadly Sins took first place in the group category. Their prize consisted of a $30 Paul's gift card and free ice cream from Chik-fil-a. Coming in second place for the group category was Legends of the Hidden Temple. They were awarded a $10 gift card to Greenleaf, free ice cream from Chik-fil-a, and free chips/drinks from Firehouse Subs.

The only problem PSF encountered with the event this year was a shortage of alcohol. Libations completely ran out with twenty minutes left in the party. Thankfully, students had all Sunday to nurse hangovers (and wash off all the hair dye and face paint).

Agency rules, but no aggressive judicial oversight, govern NSA

From NSA, Page 5

Fidential information from unauthorized disclosure. It is unclear, however, to what extent reasonable efforts can be made to hide information from an increasingly omniscient NSA. A document obtained by Edward Snowden shows that the Australian Signals Directorate, the NSA's Australian counterpart, gave the NSA access to the communications of an American law firm representing the U.S. in a trade dispute with Indonesia. NSA spokesperson Venne' Vines responded to the disclosure by stating, "Because some communications of U.S. persons [including those protected by attorney-client privilege] may at times be incidentally collected in NSA's lawful foreign intelligence mission, the agency's authorities include procedures that protect the privacy of U.S. persons," including "requesting that collection or reporting by a foreign partner be limited; that intelligence reports be written so as to limit the inclusion of privileged material and to exclude U.S. identities; and that dissemination of such reports be limited and subject to appropriate warnings or restrictions on their use." Although the NSA is prohibited from conducting surveillance on law firms and other businesses based in the U.S. without first obtaining a warrant, and minimization rules exist to limit how sensitive information is shared after collection, concerns remain about whether surveillance information about U.S. individuals or firms is obtained from foreign intelligence agencies and shared with domestic civilian agencies, such as the U.S. Department of Agriculture.

Regardless of whether one believes Edward Snowden to be a traitor or a hero, one cannot deny that his disclosures have ignited an important public discussion about the proper limits of government surveillance. History has consistently demonstrated that a morally courageous few can alter the trajectory of the public discourse. Whether the public discourse can motivate effective judicial oversight over the executive branch, however, remains to be seen. If you have the moral courage to speak about government surveillance, then remember to mind your choice of words. Big Brother is watching you.
Thanksgiving is approaching soon which reminds me of the reasons why I love this holiday. Usually the convivial atmosphere of family, endless array of food, and seasonal habits of hedonistic gluttony are sufficient to make me happy. However, this year I’m most excited to finally get this 1L memo off my hands. Personal agony aside, Thanksgiving should be a source of relief from our studies. Whether you are returning home to family or staying in town to celebrate with friends, try to close the books for at least a couple of hours to feast. One thing is almost certain regardless of where you celebrate, it may be necessary to bring a dish and/or bottle of wine to contribute to the meal. If this is the case, you’re probably not going to have much time to prepare the dish and it needs to be easily transportable. I’ve jotted down a couple of simple Thanksgiving recipes that are easy to make, portable, and a little out of the ordinary.

Corn Pudding
Don’t worry, this dish does not actually have a pudding-like texture. It’s more like a moist cornbread. Definitely my favorite Thanksgiving dish.

Ingredients:
- 1 can whole kernel corn
- 1 can creamed corn
- ½ cup butter
- 1 cup sour cream
- 1 package Jiffy cornbread mix

1. Preheat oven to 350 degrees. Lightly grease casserole dish.
2. Mix whole kernel corn, creamed corn, butter, sour cream, Jiffy mix in large bowl. Transfer to casserole dish.
3. Bake for 45 minutes or until inserted knife comes out clean.

Herb-Roasted Potatoes and Onions
Someone else will definitely bring mashed potatoes to Thanksgiving, so try this recipe instead. The recipe calls for a lot of onions, but don’t shy away for fear of bad breath. Cooking onions at high temperatures negates the bad breath effect.

Ingredients:
- 2 red onions
- 4-5 potatoes
- 2 tablespoons lemon juice
- 1 teaspoon Dijon mustard
- 2 garlic cloves
- 1 tablespoon thyme
- ¼ cup olive oil
- Salt and pepper to taste

1. Preheat oven to 400 degrees. Lightly oil baking sheet. Cut onions and potatoes into slices.
2. Combine lemon juice, Dijon mustard, garlic, thyme, and olive oil. Mix well and season with salt and pepper to taste. Mix onions and potatoes in mixture until well coated.
3. Place onions and potatoes on baking sheet. Bake 40-50 minutes, or until tender and brown at edges. Toss during cooking to ensure even coloring.

The Professor’s Picks
Thanksgiving wine selections from Paul Marcus

So what does our felony murder rule-hating, shiraz-loving, Californian Professor Paul Marcus recommend for Thanksgiving? Marcus will serve a number of different wines to accommodate the ranging palates of his family and guests. An exemplar host indeed. For fans of muscular red wines, he looks to Robert Hall Cabernet Sauvignon from Paso Robles, California, and other wines from that specific area. Melville Pinot Noir from Santa Barbara, California will also find a spot on the table for guests who prefer lighter reds. In the same vein, Marcus recommends Pinot Noirs from Willamette Valley in Oregon. However, be prepared to pay upwards of thirty dollars for those coveted wines. In terms of white wines, Marcus veers towards the light, crisp, and herbaceous Sauvignon Blancs from the Marlborough region of New Zealand. As an accomplished world traveler, Marcus has had the opportunity to witness the explosion of wineries across the small Pacific island during the past twenty years. His knowledge of New Zealand wines rivals his competency in conspiracy law. You should value his opinions on both fronts. From New Zealand, Marcus recommends Monkey Bay Sauvignon Blanc, which is a great product at the twelve to fourteen dollar price point.

Courtesy of crushwineco.com