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"Combat Lawyers" Symposium Hosted by Military Law Society

by Andrew Flee

The Military Law Society hosted its annual fall symposium on October 8, 2003, in Room 133. This year’s symposium topic was taken straight from the newspaper headlines. Four Judge Advocates General (JAGs) from the Army, Navy, and Air Force shared their deployment experiences from the past year.

Representing the Air Force was Lieutenant Colonel Thomas Couture, the Deputy Staff Judge Advocate for the 1st Fighter Wing at Langley Air Force Base, and Lieutenant Colonel Ursula Moul, from the Air Combat Command at Langley. Representing the Navy was Lieutenant Commander Tony Mazzeo, Staff Judge Advocate for the Carrier Strike Group Two (USS Harry Truman Battle Group). Representing the Army was Major Elizabeth Marotta, formerly the Staff Judge Advocate for the 7th Transportation Group at Fort Eustis, now attending the Graduate Course at the US Army JAG School in Charlottesville, Virginia.

Lt. Col. Couture served in Saudi Arabia during Operation Iraqi Freedom and then served in Kyrgyzstan (a former Soviet Republic near Pakistan) in support of Operation Enduring Freedom, the ongoing operations in Afghanistan. He enlightened the audience with interesting stories of how he helped to build a base from scratch at a Saudi Arabian airfield. He practiced contract law in setting up the supply lines with the locals — with costs totaling almost $30 million — to start up the base. He was able to practice minor criminal law by advising the commander on how to handle airmen that may get into trouble.

Couture also helped distribute the Rules of Engagement (ROE), a very critical combat function of lawyers, to the troops on base. Developed from the Geneva Conventions, the UN Charter, and United States federal law and policy, the ROE helps military members decide how and when they can engage the enemy and with what weapon systems.

Finally, in Kyrgyzstan, Lt. Col. Couture helped run day-to-day operations at a multinational base. He told the story of when he was assigned to investigate a plane crash involving fatalities, where the plane was on loan from the Ukraine, the pilots were Spanish, the plane crashed in Turkey, and the investigator was an American! That was a truly unique situation with international impact.

Lt. Cdr. Mazzeo served aboard the USS Harry Truman Aircraft Carrier during Operation Iraqi Freedom. His Carrier Strike Group spent most of the time patrolling the eastern Mediterranean. Their Group launched numerous Air Strikes and Tomahawk missile strikes against targets in Baghdad. As with Couture, Lt. Cdr. Mazzeo had a role in the distribution of the ROE.

Mazzeo showed video footage of a Tomahawk missile launch, combined with photos of the precision strike capability of these missiles. Even after traveling almost 800 miles, these missiles are precise enough to hit a specific spot on a building. Lt. Cdr. Mazzeo had the opportunity to practice Admiralty law after a tugboat damaged one of the ships in port. They also had to worry about the “Rainbow” Warrior Greenpeace ship. In the past, the Greenpeace vessel has defaced or interfered with the combat operations of the Navy, and Mazzeo advised the commander on how they could avoid such interference and track the vessel legally.

Lt. Cdr. Mazzeo helped devise a plan for “Freedom of Navigation” assertion. Syria claims a territorial waters boundary of 32 nautical miles, while the UN only recognizes territorial water of 12 miles. The plan had the Group assert their rights by, shortly after arrival in the Mediterranean, openly traveling through that area in-between 12 miles.

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and 32 miles off the coast of Syria. Finally, Mazzeo helped develop a plan by which they could assert their rights to board and inspect civilian merchant vessels that refused to respect the “Military Engagement Zone” set up around the area occupied by the Carrier Group.

Major Marotta was the only one of the three main speakers who actually set foot inside the country of Iraq. She did this on day one of the ground war. She was with the convoy near Nasiriyah that resulted in the capture of several American POWs, including PVT Lynch. She showed exciting pictures (she used to be a combat photographer before she became a JAG) of the convoy operations and tanks moving across the desert. She also had pictures of the “Mother of all Sandstorms.”

Major Marotta actually tried five courts-martial while in Iraq against soldiers who misbehaved. She prosecuted one trial against a soldier who removed the firing pin from the weapon of his supervisor. In addition to all of this, she helped formulate the ROE that the 7th Transportation Group followed while it was in Iraq. A unique unit in the Army, the 7th Group actually has more boats than the Navy! (All of the 7th Group’s vessels are supply ships.) Most of the time, soldiers in the unit were working in the ports of Kuwait, bringing in ammunition and supplies for the whole US Army. Marotta’s legal duties included determining the rights of Enemy Prisoners of War (EPWs), setting up a confinement facility for American soldiers who misbehaved in theater, distributing the ROE, contract law with local suppliers, and target analysis, the determination of what can and can’t be hit according to the laws of war.

In all, 26 people attended the symposium. After the presentations, there was an informal question and answer period over refreshments and beer in the student lounge. The symposium is available on videotape for those interested in watching it. E-mail Andrew Flor at adflor@wm.edu to request the tape.

Erudite Excitement at Bushrod Tournament

by Nick DePalma

Virginia Vile, arguing for the petitioner, went first, using exactly two minutes for rebuttal. “The case before you tonight is one that is barred from procedural review,” she stated with assurance. From there, Virginia spent her remaining three minutes skilfully justifying that conclusion.

It was then Claire Maddox’s turn to speak before the Justices. “This is a case,” she began, “about a fundamental miscarriage of justice.” Thus began a line of argument on the issue of fairness and constitutionality that Claire remained focused on throughout her presentation, deftly fielding questions and answering on the fly.

Each contestant was an expert on the cases. Both delivered extremely convincing oral performances. In the eyes of the audience and the Justices, each contestant was already a winner before the competition even started. Sitting in the courtroom seats, it was easy to see how Claire and Virginia had gotten to where they were, but by the time the arguments were over, it was nearly impossible to tell who had won.

The competition had been amicable but fierce during last Thursday’s 2003 Bushrod T. Washington Moot Court Tournament’s final round. The Justices presiding were the Hon. Lydia Calvert Taylor, Dean Reveley, and Casey Chmielewski, (last year’s Bushrod champion).

No one knew how the results would come out as the Justices retired to chambers. After a short deliberation, they emerged.

David Baugh Lecture

The Black Law Students Association presents David Baugh lecture to be held in room 127, October 31 at 10:00 am. Baugh, an attorney with the ACLU, is one of the most renowned and controversial attorneys in the country.

BLSA invites the Law School community’s participation in its upcoming community service events. BLSA, in conjunction with the American Red Cross, will hold a blood drive October 27. BLSA will also host its annual Thanksgiving Basket Competition! All Legal Skills Firms are encouraged to participate. Baskets will be judged by the BLSA E-Board on November 24. Prizes will be awarded to the firms with the best basket presentations. All proceeds and donations will go to participating food banks in the community.

“i have judged this for 18 years, and I have never seen it this close," stated Hon. Lydia Calvert Taylor of the Norfolk Circuit Court, while the finalists waited in anticipation. In her next breath, she voiced the decision in what Dean Reveley called a “really extraordinary performance,” the decision for which both finalists had been waiting anxiously. The audience leaned forward and then she said suddenly: “Ms. Vile, you are the winner...”

The first thing that happened following the decision was that Virginia and Claire hugged and congratulated each other in the spirit of true sportsmanship. Hon. Lydia Calvert then added, grinning, that they would make an "excellent team on the national level," considering that they both had such different styles but that they had both done so well. Later, each finalist was presented with a silver cup from the Chief Justice of the Moot Court Board, Erin Butler.

Also commended on Thursday night were Moot Court semifinalists Dominique Callins and Brad Reaves. They were awarded with a special recognition of their accomplishment. The Moot Court Board also thanked Adrienne Griffin for researching and writing this year’s tournament problem.

All things considered, it was a memorable evening and not something that anyone wanted to miss. Perhaps Justice Chmielewski phrased the feeling best: "It was just outstanding to be able to be here and listen..."

Certainly it was a chance to listen to some of the best student oral arguments anywhere.

by Adrienne Griffin

Professor Donald C. Langevoort of Georgetown University Law Center delivered the annual George Wythe Lecture on Thursday, October 16, to a capacity crowd in Room 127. In his address, Langevoort offered his own take on the recent financial reporting scandals that have rocked companies such as Enron, WorldCom, and Freddie Mac. His main conclusion is that the recent rash of corporate misbehavior is “not a stark good-versus-evil kind of phenomenon.” In his view, such scandals are not entirely the product of executive greed, but rather the result of multiple factors that create many “shades of gray” that especially affect high-tech firms.

Langevoort characterized the first factor as the “motive” of the executives in failing to follow reporting rules. Although he acknowledged that “greed is not absent from the story,” Langevoort emphasized the pressure executives feel to “create the impression that you will be around awhile” and that “you are growing faster than your competitors.” To these executives, it is essential to present a favorable picture to the public, and having high-priced stock is “a magically important factor” in designing that picture.

According to Langevoort, such a motive found a fortuitous opportunity in the 1990’s due to the “sea change in the technology of investment,” namely, the rise of the independent, internet-based investor. Noting that by 1999, 20% of all transactions on the NYSE were performed by online retail investors, Langevoort asserted that these non-experts fell prey to their own ignorance, the advice of investment analysts, and concerted efforts by executives to make their earnings look better than they actually were.

Further, Langevoort explained that the technology of business also contributed to the reporting scandals. Technology made it easier to “cook the books” by moving “assets and liabilities around the firm in a blur” through the use of derivatives and structured financing. In addition, the gap between traditional methods of accounting and the financial realities of high-tech businesses made it easier for executives to abandon a long accounting rules.

Finally, Langevoort pointed to the failure of outside forces, such as accounting firms, the markets, and especially the government, to “pass back” on executives as an additional factor leading to improper reporting. Most tellingly, according to Langevoort, were the facts that throughout the 90’s, the SEC was “grossly underfunded and Silicon Valley executives had the ear of Congress.”

Langevoort considers himself a “hawk in the world of securities regulation.” Prior to becoming a law professor, Langevoort served as Special Counsel in the Office of the General Counsel at the U.S. Securities and Exchange Commission. His thorough understanding of the complexities of the devolution of financial reporting led him to make some specific recommendations in the area of reforms. First, if corporate greed is not the ultimate cause of Enron-type behavior, then pushing for more independent boards of directors is not likely to improve the situation. Second, Langevoort rejected criminal sanctions as an effective way to combat the problem, because “once juries get confused by the shades of gray,” they will be much more likely to acquit corporate defendants. Instead, he proposed a separate administrative procedure with securities experts sitting as administrative law judges to decide the appropriate sanctions. Finally, when pressed by questioning from the audience, Langevoort admitted that he would be in favor of limiting the ability of private individuals to invest without the help of a licensed expert.

Roots Surface at Inns of Court Gathering

by David Byasse

It was a roots of a great oak that surfaced during a fine speech presented by The Hon. Donald W. Lemon on the evening of October 9th, 2003. The Anson-Hoffman American Inns of Court brought the program to William & Mary School of Law and attendance was such that students, faculty, and even Dean Revelle were obliged to take a seat on the steps of room 127’s bustling auditorium. However, the Dean did note that Mr. Potachew, who usually resides in the room, was nowhere to be found.

Noting that he had previously spoken before dinner and drinking, and after dinner and drinking, but never while his audience drank, Judge Lemons invited the group to raise their glasses and relish the moment. Over the course of a little over thirty minutes he quite ably recited some of the most intricate and fascinating details of Justice Marshall’s development as a Federalist and the Marbury v. Madison trail. Even the judges in attendance conceded they had learned something.

Judge Lemon’s insights into Marshall’s life included the fact that the uncharacteristically well-read frontier boy, cousin to a leading Republican of the day (Thomas Jefferson), became a leading Federalist while suffering the trials of winter in a different Valley Forge while other colonists tried to acquire the needed supplies with the British. Feeling that this horrible suffering was due to a lack of government, Marshall recalled “I came to understand America as my country and Congress as my government.”

From the beginning of his career as Chief Justice, Marshall was immediately cast into the midst of an exquisite theatrical performance where he and everyone else in the court were drawn through the idiosyncrasies of proving the existence of documents they had personally laid eyes upon. This was, of course, the case of Marbury v. Madison, where, although not nearly as novel as widely believed, the concept of Judicial Review was solidified. Judge Lemons noted the judiciary subsequently “has used [judicial review] to micromanage economic and cultural matters of the States.” Judge Lemon also described the development of executive privilege.

So as not to allow this article to escape the romantic needs of my dear colleagues who relish the commentary of Sex and The Law, let it be known that our pillar, Justice Marshall, wore a locket containing a lock of his wife’s hair from the time of her death until his own.

The event was a most pleasant and welcoming affair. Students outnumbered faculty in attendance, and all were joined by a number of Federal and State judges.
Voting in Virginia: The Race for the House of Delegates

by Marie Siesseger

You've moved to Virginia, set up a permanent (for three years, at least) address, and slapped a pair of shiny new license plates on your car. And if you're like most opportunistic out-of-state residents, you couldn't resist the urge to get vanity plates, so now you have some misspelled platitudes proudly displayed on both ends of your jalopy. Congratulations. Now you're waiting with bated breath to learn whether your petition for residency has met with the approval of the University Registrar. (Hint: It hasn't, but go ahead and keep paying your Virginia income taxes. What should you do in the interim? Why, perform your civic duty, of course!)

On November 4th, incumbent Bill Barlow (D) will face off against challenger Troy Lapetina (R) for the seat in the Virginia House of Delegates representing the 64th District. The 64th District includes Williamsburg, as well as portions of Isle of Wight, James City, and Southampton Counties, all of Surry County, and part of the City of Franklin. The elected delegate represents approximately 63,000 citizens.

On the Left: Bill Barlow

A life-long resident of Virginia and 12-year member of the House of Delegates, Barlow stated that his "top priority is, and has always been, improving public schools in Virginia." Barlow also supports expanded access to health care and has plans to achieve this goal by "offering incentives to small businesses to provide insurance coverage to their employees." If re-elected, Barlow plans to continue to pursue initiatives designed to preserve the Chesapeake Bay watershed.

Barlow is a U.Va.-trained lawyer practicing in Smithfield, Va., and former officer in the U.S. Air Force. He and his wife, Taylor, have two grown children, one of whom is a 2002 W&M Law School graduate.

In recent sessions of the House of Delegates, Barlow has supported "efforts to require the state to give local elected officials more authority, including authority to better manage growth in our neighborhoods." He has long been a proponent of greater state financial investment in K-12 and higher education. Recognizing the increasing costs of state-supported post-secondary education, Barlow stated that "the repeated supported bond initiatives and other funding mechanisms that have provided money, or would have provided money, to higher education."

Barlow emphasizes that long-term fiscal growth is important to Virginia's economy, and notes that "many in the General Assembly have prioritized tax cutting at all costs—without regard to a stagnant or declining state revenue stream and to chronic, critical funding needs." Taking a temperate approach to taxes, Barlow continues to advocate the elimination or reduction of a few select taxes, including the tax on groceries, but notes that "the reality is that these tax cuts are less important than the need to fund public schools."

During his prior service in the House of Delegates, Barlow served on the Courts of Justice Committee. In his capacity as a committee member, he helped to interview and screen judicial candidates for judicial appointments in addition to monitoring judges up for re-election. Virginia judges are elected by the General Assembly after they undergo a rigorous screening process in the Courts of Justice Committee. The Committee also handles legislation addressing the operation of the state judiciary, in addition to public safety issues. In particular, Barlow notes that as a Committee member, he has "supported tougher identity theft laws, because identity theft has emerged as one of our nation's leading crimes."

On the Right: Troy Lapetina

Challenger Troy Lapetina is a veteran firefighter and former U.S. Secret Service agent. He has spent much of his career in emergency services, and served as Executive Director of the Virginia Department of Fire Programs under former Governor George Allen. He lives with his wife, Helen, and their two sons in James City County.

Running on a platform that focuses on improving the safety of the communities in the 64th District, lower taxes, and improving public education, this campaign marks Lapetina's first bid for elected office. His campaign website reveals no indications of the substantive measures Lapetina would introduce as a Delegate to accomplish his goals. However, Lapetina has garnered the endorsement of the Professional Firefighters of Williamsburg Local 3424 and the James City County Professional Fire Fighters Association Local 3306.

Lapetina declined to comment for this story.

Want more information before you head to the polls?

Bill Barlow's campaign website is: www.barlowfordelegat.com
Troy Lapetina's campaign website is: www.lapetinafordelegate.com

Talking Connections: SELS Holds Organizational Event

by David Byassee

Who do I know? That is the question you should be asking yourself if you expect to get into the tightly knit world of Sports and Entertainment Law. According to their brochure, the Sports and Entertainment Law Society here at W&M "is an enjoyable and informal society open to students with any level of interest in sports and entertainment law!" Knowing it's not what you know but who you know, this relatively small group of highly charged individuals is open and prepared to help others with similar interests.

In their informational meeting held on Wednesday, October 8th, the group provided Papa John's pizza and cold drinks while asking the new recruits, "Does anyone know anyone famous?" Seeking dues of $25 from new members, returning members explained where the money goes. There is an annual symposium held in the spring which has traditionally brought in speakers from throughout the nation, and two topic-specific moot court competitions. One moot court competition focusing on sports law held in Tulane during the week of March Gras, and the other is held in New York City and covers intellectual property and trademark law.

The group expects that next year's executive board will be filled by this year's incoming class, so if anyone is interested there is definitely room for active leadership involvement. Ensuring that SELS serves the group's interests seems to be the only necessary qualification. For information about SELS contact the President, Derek DeGrass, at dedegr@wm.edu.

IBRLG Lunch: Immigration

by Adrienne Griffin

On Thursday, October 9, 2003, Professor Mae Ngai of the University of Chicago spoke at a luncheon attended by students and faculty. The luncheon was sponsored by the Institute of Bill of Rights Law. Professor Ngai spoke on her recently completed book on the history of immigration entitled Impossible Subjects: Illegal Aliens and the Making of Modern America.

Professor Ngai began the discussion by summarizing the principal areas of immigration law covered in her book.

Historian Mae Ngai

She is especially interested in the 1924 Immigration Act and the quotas that resulted from it. She particularly emphasized the concept of "aliens," which does not refer to a formal legal status, but rather to the children of illegal aliens who are themselves citizens but still considered "aliens" by American society. Professor Ngai also discussed the history of deportations in the United States, emphasizing that the earlier trend toward discretionary decision making has evolved into a much more stringent system of mandatory removal. For example, before 1920, there was a statute of limitations on deportation and in the 1920's and '30's it was considered a hardship to deport adult aliens with citizen children. While family separation can still be considered a deportation proceeding, these policies have changed and, according to Professor Ngai, as of 1996 it became "almost impossible to become legalized."

An extensive question and answer session followed Professor Ngai's introductory remarks. She fielded inquiries from both students and faculty on a range of issues from the reorganization of the Immigration and Naturalization Service (INS) to the emergence of the Department of Homeland Security and the changing attitudes of organized labor toward illegal alien workers.

Professor Ngai also led discussions of a country's legitimate rights to control its borders and gender violence being deemed a presumption of refugee status, a very recent development in the field. The students at the luncheon enjoyed taking part in the discussion. Sada Andrews (3L) remarked that, "immigration policy is a good measure of how we, as a nation, see ourselves and feel about the rest of the world. It was interesting to hear about how that has changed in the last century."
Who is John Hackel?

by Susan Billheimer

John Hackel (3L) says that his goal is to do nothing this year. In a law school filled with students working around the clock to keep up with their demanding workloads, such a statement might easily raise a few eyebrows. As Chief Justice of William and Mary’s Honor Council, however, John Hackel serves as the first point of contact for law students concerned that an honor code violation has occurred. If no suspected honor code violations arise, he would have nothing to do.

Make no mistake, John and the 15 representatives of the Honor Council (see chart) are working hard to achieve this goal. Last spring, the Honor Council formed small committees to tackle projects like improving the current honor code, training each other to be better Honor Council representatives, and formulating a plan to keep students aware that William and Mary has an honor code, an honor council, and an honor system.

As a result, this year’s 1L class experienced a more thorough debriefing on Honor Council activities during law camp than classes in prior years. 2Ls and 3Ls heard a short presentation in a large auditorium on Honor Council activities before taking the William and Mary Honor Pledge not to lie, cheat, or steal in their academic or personal life. By contrast, 1Ls participated in an informal one-hour session in their law firm groups to learn about the Honor Council and the honor code. This change arises partly from experience John had at Quantico teaching Marine Corps officers about the core values of Honor, Courage, and Integrity. He learned that smaller groups and an informal setting are more effective than a large lecture to address character-building issues, in part because it gives students an opportunity to ask somewhat more personal questions than they might otherwise ask in a large auditorium.

The results of the change were noticeable. Thirty students applied for the five 1L Honor Council positions this year, a marked increase from previous years. In addition, the Honor Council received large amounts of feedback from evaluation forms handed out at the small firm sessions. John was very pleased with the comments on the whole, and felt they reflected the diversity of the student body. William and Mary law students come from a wide variety of backgrounds, from schools with no honor codes to establishments with very strict policies that have little tolerance for honor code violations. Predictably, some students felt that the topic of the honor system was treated too flippantly, while others felt as though it was too serious. While John admits that each teacher handled the topic differently, he emphasizes that the Honor Council tries to take a balanced approach to student concerns. Although the Honor Council issues sanctions more readily than some institutions, it will not be as likely to expel students for infractions as other schools.

Chris Clements (3L) helped create the school’s current honor code as an undergraduate student while serving as Vice-Chair of the Honor Council at William & Mary. In 1996, President Sullivan proposed to unify the different honor codes into one code applicable to the entire college. Prior to that, marine sciences, education, public policy, business, law, and the undergraduate campus each had their own honor code. Two representatives from each school worked to unify the codes. The final result, which took a year to produce, was eventually ratified by each component’s student body government and accepted by President Sullivan. Although the entire college adheres to the same honor code, violations among law students are heard only by members of the law school’s Honor Council. In addition, the current honor code includes a requirement that the Honor Council publish a summary of all incidents, stripped of identifying information, in the William and Mary newspapers each semester. According to Chris, one hotly debated topic was whether it would constitute an honor code violation to not report someone whom you knew violated the honor code. In the end, it was decided that this would not be a violation. Further information about the current honor code is provided in the student handbook and on the William and Mary web site.

According to the student handbook, the student-administered honor system is one of the most significant traditions of the College of William and Mary. It originated in an implicit “gentleman’s code of conduct,” which ostracized those who broke the college’s discipline code. The essence of the honor system is individual responsibility in all matters relating to a student’s honor. The student handbook states that in today’s diverse environment, honor has become a more “relative” term, not defined in a strict code of

gentleman’s conduct but which means different things to different people. The Honor Council’s Web site maintains that the presence of an honor code contributes to an atmosphere of trust and a more open environment, which permits unproctored exams and libraries with open stacks. Thus, today’s code focuses on questions of academic integrity and practical, and tends to shy away from questions of general moral character.

Honor Council representatives welcome suggestions and comments throughout the year, and stand available to address student concerns of honor code violations. John Hackel points out that law students can resolve 99% of their questions by reading the honor code or talking to the person about whom they have suspicions. Although the Honor Council ultimately exists to perform the dirty work of investigating allegations of honor code violations, we should all work together to uphold our pledge and to help John meet his goal.

Challenge to our readers from the author

The current code’s focus on questions of academic, rather than personal, integrity is not above question or criticism. If indeed, as is proclaimed by our founding father George Wythe, it is “here where we shall form such characters as may be useful in the national councils of our country,” we ought not to have a code that encompasses all types of immoral conduct; in which cheating on one’s spouse constitutes as great

a reason for expulsion as cheating on an exam? Ultimately, the moral character of each Marshall-Wythe graduate reflects upon the character of the school, its students and fellow graduates, for better or for worse, shudder at classmates’ tales of excessive promiscuity, drunken revelry, and swearing just as I rejoice in their efforts to improve our community and themselves; for, again, it is our judgment and actions that ultimately contribute to our success as lawyers and citizens.

I invite you all to contribute your comments on what you think of the honor system in Paul Rush’s next Q&A column.
All right, folks. You've failed me. I'm really quite ashamed. With all of the opinions I hear bantered around the school — in class and out — I get no responses to my latest plea for submissions. You leave me no choice; I'm instituting the draft. Women will not be excused, and conscientious objector status will not apply.

The next topic up for discussion will center around our esteemed students of the nation's oldest law school?

Food for thought, folks. That's the point. So, unless you have no thoughts, throw me a bone here. Or I will come after you. It's not an idle threat. Let me know you're alive out there, and send an email to pdrush@wm.edu. It'll be painless. I promise.

Moving on, the meaning of the word sacrifice is also of use to us here. It means, quite simply, "to give up or surrender." The term self-sacrifice, then, means "to give up or surrender one's self." For our purposes, it is synonymous with selflessness.

Now altruism. Being derived from the Latin word alter, which translates into other, altruism literally means "other-ism." Self-sacrificial service is its end. To act altruistically, one must act in disregard of his person; in other words, altruism requires selflessness - plain selflessness. (As "a" is "a," selflessness is selflessness - profoundly, purely, or, as I just noted, plainly.)

The creed of altruism is not that it is good for one to be generous; as Raj thankfully recognized in his essay, being generous routinely is (and I'd argue should be) selfish. Indeed, it certainly can be of help to me to visit a sick friend or care for a pet. Altruism's creed, rather, is that it is good for one to be miserable and die - inversely, that it is evil for one to live and be happy. Just as something cannot be selfish and selfless, and just as "a" cannot be "not-a," it is impossible for one to act in favor of his own well-being and act altruistically.

Bearing this in mind, I, in contrast to Raj, would ask, "How can anyone reasonably argue that altruism is good?" Not merely would I challenge someone to try to answer this question; I would, with all due respect, tell him he could not do so. The question "Why should one be altruistic?" has no rational answer. People can only justify altruism on the basis of how they feel (as opposed to what they know).

As I previously indicated, my purpose in writing this response was to explain the nature of altruism; it was not to focus on why altruism is evil (or positively — and preferably — stated, why self-interest is good). The subject matter is simply too elaborate to address fully in a newspaper editorial. Perhaps in answer to demand, I would be willing to proceed from here in a follow-up submission.

In the meantime, if anyone reading would like to know why self-interest is good, i.e., moral, please seek me out. With confidence, I assert that trying to be of help would be the selfish thing to do!

Military Law Society Halloween Golf Tournament

When: October 31, 2003, 12:00 PM until complete (late arrivals O.K.)
Who: All law students and faculty!
Location: Cheatem Annex
Format: 9 hole tournament, 2 person best ball, captain's choice (full 18 holes included in price!)
Cost: $25/person due at signup (cart included)
Prizes: Best team, worst team, longest drive, closest to the pin, and best costume!
Signup: Table in the lobby, Oct. 27-28, 1000-1600.
E-mail: mlwsoc@wm.edu for more details.
Hallway Chatter: Gay Marriage

by R. S. Jolly

A friend of mine recently endorsed bans on homosexual marriage and homosexual adoption. Many homophobes give otherworldly reasons for such proscriptions, but I am forced to focus on worldly reasons due to space constraints and my inability to muster up enough hubs to say that I understand the mind of God.

Many people suggest that homosexuality belongs to the class of abnormalities, but they seem to really mean that homosexuality belongs to the class of defects. I see a huge distinction between an abnormality (a statistical notion implying atypicality) and a defect (a moral notion implying disease). To say that homosexuals constitute roughly ten percent of the population implies that homosexuals are abnormal. Ho-hum; geniuses and violinists are also abnormal by reason of atypicality. On the other hand, to say that homosexuals are defective implies that they should be fixed, much like individuals who suffer mental illness. This implication cannot be taken seriously; while mental illness can impair social functioning and safety to such a degree that life and the quality of life can be undermined, homosexuality tends to involve consensual decisions about the good and qualitatively life-enhancing world of sex.

If homosexuality cannot justifiably be called a defect, our negative judgments about it probably rest on the fact that heterosexual marriage has an institution as deep roots in human history. Again, such a derivation cannot be sustained. For one thing, homosexuality also has deep roots in human history. (In fact, if homosexuality has deep roots in mammalian history, then I reckon it predates marriage.) Secondly, human history is marked by flux. After enslaving people, we lynched them; afterscapegoating people, we gassed them; after impaling people, we finished them off with atomic bombs; and, in better times, we realized that some people weren’t subhuman after all. People change, attitudes change, and nothing but folly can stop us from recognizing the equal dignity of all human beings. In summation, I cannot think of a satisfactory objection to homosexual marriage per se.

Many people oppose homosexual marriage because it opens the door to homosexual parenthood. Some opponents fear that adopted children of homosexuals might themselves become homosexuals, but this fear is unfounded and, more importantly, irrelevant. In other words, even if we discount studies suggesting a strong genetic contribution to homosexuality, we still cannot justifiably view homosexuality as a defect.

Some opponents of gay marriage fear that adopted children of homosexuals would be marginalized by other children and by the community at large. “We should not subject innocent children to social punishment!” such opponents cry. Arguing in this manner seems compassionate but strikes me as highly offensive. Such an argument unjustifiably assumes that conventionality is superior to individuality. Such an argument unjustifiably shifts the burden of acculturation onto the minority instead of distributing the joy of mutual acculturation to all.

No human being should ever be pressured to conform to amoral conventions and have human beings feel obligated to succumb to such pressure. Forced conformity to matters of taste undermines our freedom to conduct our unique and precious lives as we see fit; such freedom is a precondition of human creativity and human flourishing, and the violation of such freedom should always be resisted.

On another level, some people miraculously derive the rightness of heterosexual marriage from the fact that heterosexual marriage is an institution. Such a derivation cannot be sustained. For one thing, homosexuality also has deep roots in human history. (In fact, if homosexuality has deep roots in mammalian history, then I reckon it predates marriage.) Secondly, human history is marked by flux. After enslaving people, we lynched them; after scapegoating people, we gassed them; after impaling people, we finished them off with atomic bombs; and, in better times, we realized that some people weren’t subhuman after all. People change, attitudes change, and nothing but folly can stop us from recognizing the equal dignity of all human beings. In summation, I cannot think of a satisfactory objection to homosexual marriage per se.

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On another level, some people
Features

Screening Internship at the Montgomery County State Attorney’s Office

by Raul Bhat

This past summer, I interned at the Montgomery County State’s Attorney’s Office in my hometown of Rockville, Maryland. My primary responsibility was the pre-trial screening of cases. My screening duties allowed me to have initial contact with victims of shoplifting, auto theft, and credit card fraud among other misdemeanors. Subsequently, I assessed the prosecutorial merit for each case by examining the strengths and weaknesses of the evidence. The process saved prosecutors considerable time and expedited their workload, as they routinely handled numerous cases on any given docket. I also subpoenaed witnesses, filed appropriate motions and used the office network to retrieve a defendant’s criminal history.

Screeners play a pivotal role in ensuring that victims fully understand their legal rights and responsibilities. On numerous occasions, threatened victims wished to drop all charges out of fear that the defendants would harm them. In such situations, I tried to break down any distrust or doubts of efficacy that a victim displayed toward the criminal justice system.

On my “court day” each week, I directly assisted the prosecution at criminal trials, sentencing hearings and juvenile court. The summer interns also visited a Maryland State Penitentiary. As you are probably thinking, I was initially apprehensive about visiting a jail. However, by actually speaking with the inmates, among them a felon serving a life sentence for murder, some of whom were remorseful and others who were surprisingly not, I gained an even greater appreciation of the societal importance of the State’s Attorneys. Thanks to PSP for making this experience possible.

Doraldo’s—Not Quite Mom’s, But Pretty %*@[! Good

by Nicole Lillibridge

Sometimes I feel the Richmond Road restaurant chains calling me. I want a decent meal, fast, and I need to go out because I have nothing at home to cook. When I feel the urge to visit a greedy, corporate, impersonal, chain restaurant coming on, I sometimes resist by going to Doraldo’s, in the Shops at Kingsmill.

Doraldo’s is a cozy Italian place that has never failed to be tasty, reasonably priced, and enjoyable. The staff is consistently upbeat and solicitous—even when they are busy or when I’m in a cranky diner mode. I find myself very forgiving of any minor lapses in the generally excellent service because, much like the small restaurants of Italy, the staff at Doraldo’s is so warm and welcoming as soon as you step in the door. It’s a casual café with an outdoor patio and vintage posters decorating the walls. In addition, once seated, the most addictive little garlic bread knots are served. (To be honest, this is usually why I want to eat at Doraldo’s.)

The menu is deceptively typical. Appetizers ($4.95-8.95) include pretty typical fare for a casual Italian restaurant. The difference is in the quality. Doraldo’s has the best fried calamari I’ve had in a long time. It’s fresh-cut, fried to a golden crisp, and served with a delicious tangy marinara. The pasta dishes ($10.95-13.95) depart slightly from the standard, including one of my favorite items—rigatoni with chicken and broccoli in a pink marinara cream sauce. Tasty, filling, and in a large enough portion to possibly feed two, it’s wonderful. Most importantly, this dish is ostensibly healthy, even though with one taste, it’s pretty clear that this should never be included in a diet regimen.

The eggplant parmesan falls short of the standard (my Mom’s) but not by much. With lightly breaded slices of eggplant, fresh mozzarella, and the tangy marinara, it’s satisfying comfort food expertly prepared. While the menu explains that the food is made fresh to order and may take some time to prepare, the food has always been very prompt. Especially when it arrives steaming to the table, and realize that it was literally prepared from scratch and served.

Doraldo’s also features several entrees ($16.95-21.95), including mostly chicken and veal dishes. The entrees and the pasta dishes come with a generous portion of salad, served family-style, and tossed in a light Italian dressing. Together with the pasta dishes, the menu provides enough appealing choices that choosing a single entree can require serious deliberation. The brick-oven pizza should not be overlooked. Sampled on a previous evening, the thin crust is light and crisp, baked in the large brick oven visible to the dining room. Several pizza toppings are available, from broccoli to fresh peppers.

Drink options include a few beer selections, Pepsi products, and a decent list of inexpensive Italian wines ($13.95-41.95). They also have a large selection of house wines available by the class or by carafe. Although usually I am too completely satisfied to consider dessert, I thought I would do my readers a disservice if I did not sample something from the dessert menu (all about $4.95). Doraldo’s does not make their own desserts, but orders them from an Italian company. Selections include tiramisu and a couple of chocolate cakes, with several tasty sorbets as well. I enjoyed an orange sorbet, served in a hollowed-out orange. I was tempted to order the pineapple sorbet (served in a halved pineapple) just to see if it really existed, but I refrained. The sorbet would be perfect on a hot afternoon outside on Doraldo’s patio. However, the dessert was a perfectly light finish to a satisfying meal on a chilly evening.

The next time you are wondering where to get a decent meal without a lot of fuss, think about heading to Doraldo’s. It’s also a great place to go if you have forgotten why you loved carbs so much in the first place. The garlic knots will remind you.
Sex and the Law

by Shannon Hadeed

I was just chatting with an ex-boyfriend of mine who happens to be a lawyer. After the pleasantries, we fell into a familiar pattern: we began to argue. Not about us, no, about an alternative method of paying for education. But I quickly tired of the supposedly mentally challenging conversation and found myself beginning to daydream about finding myself a nice man in construction or plumbing or pretty much anything but lawyer-ing. But then I realized something. Would I just argue anyways? What happens when you argue for a living and you take your work home with you?

I did some research. And it’s not looking good for female lawyers. First we have to find someone willing to date a lawyer, which pretty much limits us to either men as “successful” in their professional lives or one who is secure enough in himself to not care. Then we have to manage to not argue him away. This apparently takes awhile because, at least in the 1990’s according to a collection of data made by Felicia LeClare at Notre Dame’s Center for the Study of Contemporary Society, almost 50% of women lawyers remained unmarried until after the age of 34. That’s about 15% more than doctors and who knows more than teachers. For male lawyers it’s about 40%. But that’s not all I found out. Women professionals in general who have six or more years of post-secondary education have a substantially higher divorce rate than women generally. That wonderful information was collected by Teresa Cooney and Peter Uhlenberg for an article comparing female professionals family-building patterns. But what about the men, right? Well... although 25% of women lawyers are divorced by the age of 50, for male lawyers it’s only about ten percent. So -- apparently there are a few more lawyers available in the dating pool than doctors, but if you put the divorce rates together, that’s about 35% chance of a lawyer-lawyer marriage working out. That’s creative math at work because there is no information about lawyer-lawyer marriages to be found. Do those numbers still seem better than the national average? Sure, but that’s double the rate of divorce compared to any other professional field, at least according to Teresa and Peter.

So why do women lawyers have such lousy numbers? I have a theory. It comes back to rational thinking. You see, there has been a great deal written on the social constructs of the sexes etc., so I am not going to go into detail. But the bottom line is men try to fix women’s problems and women just want to be listened to. Does that mean men want their problems to be solved? I don’t know, but somehow I doubt it. So women don’t need to have their problems sorted out. We can solve our own problems. We need someone to just listen to how we feel. The most common arguments women often receive from men when they are talking about the way they feel are as follows: “But why do you feel that way?” “That doesn’t make sense.” “But have you thought about it like this?” and the lawyer favorite “That’s not rational.” Women in general don’t like it. I would argue men don’t either. So when a female lawyer goes to her partner, not only has she already methodically thought out how to solve her own problems, the last thing she wants to do is present yet another argument, this time as to why she is justified in feeling the way she does. As Chris Rock says women just want to hear “No, you’re kidding. Oh, really. No she didn’t.” That b**ker. He left out “That sucks baby. I am sorry that happened to you. Why don’t you make dinner tonight?” And although men take it for granted, that’s the response they expect to get from their women. Because that’s what they usually get. Because most women have been socially trained to give that response. Women lawyers have it trained out of them. Reverse training if you will. Don’t get me wrong. Female attorneys don’t want to have to be reasonable and rational about their passions either, but when it comes time to listening they have the legal training to expect it from their partners. And although many would disagree, men are pretty irrational about their feelings too. When the male partner tries to tell a female lawyer how he feels, or argue about something, the usual response takes a back seat to the legal training. When an argument comes a lawyer’s way, they clear their heads and step up to the plate. Reason over passion. It’s not personal. It’s their job. And there is nothing more aggravating to an angry person than a cool response. Now on top of that, they are being asked to do something most women don’t ask of their men: be rational about your feelings. Please make sure the way you feel about something makes sense. And if it’s two lawyers going at it, they both forget that why someone feels a certain way is not the point. The point is they feel that way, and they just would like some empathy. There isn’t always a fair, just, or rational reason why a person feels a certain way. They just do. So just listen, give them a hug and take them out for milk and cookies. That goes for both female and male lawyers. Is there a way to stop ourselves from taking our legal training home with us? I don’t know. Could lawyers be more conscious of their overly rational hearts? Maybe. Should female lawyers try to mitigate their rational responses? I don’t know. But I am tired of women always being responsible. I am tired of being responsible. Do I have a better way to fix this problem? No. I just want someone to appease me while I cry, give me a hug and a kiss and call it quits. When it’s their turn, I promise not to ask why.
Library Staff Raises Money and Awareness to Fight Breast Cancer

by Marie Siesseger

On Friday, October 10, 2003, the Law Library sponsored Lee National Denim Day to raise awareness about breast cancer. Since its inception in 1996, corporate and individual participation in Denim Day has raised more than $36 million for the Susan G. Komen Breast Cancer Foundation, the full amount of which has been devoted to implementing programs designed to detect and combat breast cancer in its earlier stages, as well as to further research into the causes and cures of breast cancer.

Both men and women are at risk for breast cancer. The Komen Foundation estimates that in 2003, 211,300 women and 1,300 men will be diagnosed with breast cancer, and 39,800 American women will die from the disease.

There is some encouraging news about breast cancer, however. Breast cancer can be detected by a variety of methods, including annual mammograms and breast self-exams, and when diagnosed at an early stage, it can be treated with relatively high rates of success. According to Komen Foundation research, when the cancer is confined to the breast, the five-year survival rate is over 95 percent.

The Law Library staff has organized William & Mary’s participation in Denim Day since 2000. For the past two years, guest speakers have presented important information to law students and faculty. This year, Joy Galloni, a Board Member of the Virginia Breast Cancer Foundation, delivered a presentation entitled “Stay Abreast” and distributed literature about breast cancer prevention and treatment.

“I feel just one individual is helped by looking at the bulletin board and/or by taking the information that is on display, then this has been a very worthwhile campaign,” said organizer and Executive Secretary of the Library, Betta Labanish.

Betta Labanish, Anne Beckley, Joy Galloni (from the Virginia Breast Cancer Foundation), and Kathy Pond celebrate National Denim Day.

House of Haiku

H basho’s lessons for the legal aesthete

By Jeff Spann

Radish writers,
Funny, funny, clever, yeah,
At least at times

I like the Radish. Most people I talk to like the Radish. If the Radish writers would dial back their egoist fueled paranoia a touch, the Radish might even border on great — that and once the layout is corrected to avoid the confusing brain teaser that is the center of this otherwise edible root.

Caffeine consciousness
Fettered, straining against
My insomnia

(An oldie but goody. We dredged this one out of the archives because the IIs deserve fair warning. Their little universe is about to get a good deal more interesting.)

A call to arms,
Rescue from unjust exile,
Long live Amicus

I suppose there’s hopelessness in this direction. But, if California can recall Gov. Davis perhaps we can recall The Advocate. Recalling a recalling seems oddly more appropriate than recalling a governor anyway. Please sign the petition located in Dean Jackson’s office at your convenience.

Oh, where is the love,
Frustration, anger, fear, angst,
All we need is love.

Those in the Lennon-McCartney school of global engineering should pay special attention to a recent report by The Economist showing that much of the Middle East suffers from a troubling population ratio of men to women. Topping the list is the U.A.E. with an astounding 186 men per 100 women. Quite strange for a polygamist society, no? I think we could sew the seeds of international bliss if only we could convince the surplus women of Estonia and Belarus to move south.

FEATURES
Americans in Paris: Le Divorce Had All The Makings of a Decent Flick

by Marie Siesseger

The title is quaintly misleading; the characters are disconcertingly one-dimensional, and the dialogue is a step above insufferable. Which is a pity, really, because Le Divorce had all the makings of a decent flick.

First, it offers endless opportunity for taking potshots at the French (which, in the current political climate—and I'm thinking here of the resolution to serve "freedom fries" in the Congressional cafeteria—could have been accomplished with minimum eyebrow-raisin" and maximum humor) and on their own turf, no less! Second, it has an altogether superb cast. But, alas, there can be too much of a good thing and a good cast in principle doesn't translate into a good film in fact.

There are three very good things about Le Divorce, and they are Bebe Neuwirth, Glenn Close, and Stockard Channing. Unfortunately, due to severe overcrowding in the supporting roles, we get to see precious little of them. Instead, we're forced to spend most of our time watching an unusually embarrassing performance by Kate Hudson of sophistication—she's in a room but doesn't have the presence to make you care. The result is that Roxy's story seems overcrowding in the supporting roles, we get to see precious little of them. Instead, we're forced to spend most of our time watching an unusually embarrassing performance by Kate Hudson of sophistication—she's in a room but doesn't have the presence to make you care. The result is that Roxy's story seems overcrowding in the supporting roles, we get to see precious little of them. Instead, we're forced to spend most of our time watching an unusually embarrassing performance by Kate Hudson of sophistication—she's in a room but doesn't have the presence to make you care. The result is that Roxy's story seems

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