Voices Against the Death Penalty

by Satya Vanderbilt
Contributor

“Don’t kill me for a lie.” This is the slogan of John Spirko, a man on death row for a crime he denies. Students for the Innocence Project (SFIP) provided Marshall-Wythe students with a unique opportunity on Monday, Oct. 14. Robert W. Hoeschler, whose father was murdered in a robbery, and Tracy Spirko, whose husband is on death row, shared their own personal testimonies of why they believe the death penalty must be abolished.

Society dictates that these two should be enemies; prosecutors insist the death penalty provides closure for family members of murder victims. Robert and Tracy disagree with the status quo. They are just two of many members of Journey of Hope, an organization that works to build public awareness to abolish the death penalty.

Indeed, Amnesty International Reports that between 1975 and 2005, 119 death row inmates were completely exonerated. This is why SFIP hosted Robert and Tracy. Like Journey of Hope, the group aims to raise awareness and inspire action. But here at William & Mary, SFIP hopes to do much more than just educate. The presentation Monday was just one small step towards a greater goal: to bring the Innocence Project to Marshall-Wythe and equip students here in Williamsburg with the inspiration and tools necessary to join thousands of law students across the country who work to exonerate the wrongfully convicted.

Robert Hoeschler took action back in 2000 when he founded Innocence Project New Orleans. Robert had no law degree, but his passion for justice has led to the exoneration of five wrongfully-convicted individuals over five years. He explained the importance of the Innocence Project in a way both law students and community members could understand: the entire legal system is based on the premise that “If you get the process right, the outcome will be right. So what do you do if you get the outcome wrong? The [appellate] process is set up to identify errors in the process. Our system is ill-equipped to protect against errors in outcome.” This is why the Innocence Project has exonerated 184 individuals across the nation.

The Innocence Project “is about getting the facts the jury never saw,” Robert explained. Although a majority of exonerees were freed because of DNA testing, which may not have been available when they were convicted, some men and women were simply victims of the system. Beverly Monroe was an upstanding Virginian when she was arrested for the death of a long-time companion. Beverly was exonerated after seven years, not by new evidence or even old evidence that was newly tested; she was exonerated after a judge found that the prosecutor in the case had had exculpatory evidence all along. SFIP invites readers to hear Ms. Monroe’s testimony firsthand when she visits the law school later this month.

John Spirko is another potential exoneree was convicted because of a confession he never made. The testimony of John’s wife, Tracy Spirko, brought yet another perspective to the growing doubt in the minds of attendees Monday. Tracy shared detail after

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A Rare Moment: Straight Talk about Campaign Finance

by Dave Sella-Villa
Contributor

Michael Toner, Federal Election Commission (FEC) Chairman, came to address the law school on Oct. 19-20. The Institute of Bill of Rights Law and the Election Law Society co-sponsored the presentation. Commissioner Toner entered the world of election law through private practice and then as Chief Counsel for the Dole campaign of 1996 and the Bush campaign of 2000. Confirmed as FEC Chairman in 2003, Toner shared his observations on the changes to federal elections since the passage of McCain-Feingold, the Bipartisan Campaign-Finance Reform Act (BCRA).

BCRA attempted to eliminate “soft money” from federal campaigns, limit the type of ads that can air before elections, and increase donation limits. Opening the floor to questions, attendees challenged the Commissioner. With soft money redirected to PACs, 501(c)s, and 527s, the impact spread to candidates, contributors, and election staffers. Toner believes that BCRA has challenged candidates to focus their energies on developing a wide fundraising base. “The Internet,” remarked Toner, “has leveled the playing field.” Candidates who find new, creative ways to gather support will remain competitive in 2008.

Toner predicts that the eventual presidential nominee of each major party will have to raise $500 million over the course of the election cycle. Candidates who take the federal funds will simply not be competitive. “Hillary Clinton,” he noted, “has already broken fundraising records.” Toner intrigued the audience when he commented that the total estimated spending on the 2008 presidential election will equal national annual spending on potato chips.

Though not a call to enter the field of election law, the commentary helped the attendees to understand that campaign finance presents many problems. Campaign Finance Reform Act presents many problems. Campaign Finance Reform Act.

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Combs Gives Lecture Applying International Law to the Recent Conflict Between Israel and Hezbollah

by Sarah Abshear
Staff Writer

On Oct. 26, the Jewish Law Students Association sponsored a talk by Prof. Nancy Combs on the international law implications of the recent conflict between Israel and Hezbollah. The president of the Jewish Law Students Association began the meeting by giving the audience some of the facts about the conflict. It began on July 12, 2006, when Hezbollah, an organization listed on the U.S. State Department’s list of designated foreign terrorist organizations, kidnapped two Israeli soldiers and killed three others. The fighting between Hezbollah and Israel went on for thirty-four days, until the United Nations brokered a ceasefire.

Prof. Combs began by informing students that when dealing with international law, it is often difficult to come up with answers. Sometimes the law is unclear, but even more often facts are unclear. The conflict between Hezbollah and Israel is no different; both sides have sharply competing narratives. The truth of these narratives affects the way that rules could be applied. Both sides tend to present its side in a way that would suggest its actions were legal and the other side’s were illegal. This has been a common aspect of warfare throughout the centuries. According to Prof. Combs, there are two major concepts to consider when discussing international laws that apply to warfare. Jus ad bellum refers to when a participant can use force in the first place. Jus in bello refers to the way a participant can conduct warfare.

First, Prof. Combs discussed Jus ad bellum. She explained that Article 2.4 of the United Nations Charter prohibits states from using force, although there are exceptions. If the state faces an act of aggression, the Security Council can authorize force. For example, the Security Council authorized force against Iraq when it invaded Kuwait. Article 51 of the Charter allows self-defense if an armed attack has occurred, until the Security Council has taken measures.

Prof. Combs said that some International Court of Justice opinions suggest that when Hezbollah kidnapped soldiers, that was not an adequate provocation for Israel to begin a war. However, Israel was allowed to take countermeasures. There are two restrictions on Israel’s legal retaliation. The first is necessity. Israel and Hezbollah should have tried to work things out peacefully first. For example, some commentators said that Israel should have appealed to Lebanon, but Prof. Combs did not think that argument was credible. The second restriction is proportionality. Even if there was an armed attack, Israel was only supposed to respond in proportion to what Hezbollah did. Prof. Combs pointed out that border skirmishes have been going on since Israel withdrew from Lebanon years ago. For example, in 1996, there were cross-border shootings and prisoner exchanges. Because of the ongoing nature of the hostilities, some argue that the small scale violence does not justify the large scale invasion; many think that Israel used the kidnapping as a pretext to begin a war. However, Prof. Combs noted that this area of the law is undeveloped. For that reason, it is unclear what would happen if the issue was litigated.

Prof. Combs then discussed Jus in bello. She explained that there are many restrictions on the way that states are expected to carry out warfare. Some sorts of weapons are not allowed, because they inflict too much pain. Others restrictions have to do with how operations are carried out, like how high pilots can fly airplanes. There are also rules about the treatment of noncombatants. Prof. Combs said the basic idea is that states must be “nice” to noncombatants.

Prof. Combs said that in the conflict between Israel and Hezbollah, most of the controversy was over the weapons requirement and the requirements for proper targeting. There is a distinction between military and civilian targets. States are allowed to target military targets, but not civilian targets. Military targets are limited to objects which give the other side an effective military advantage if left alone and offer definite military advantage to the state destroying them if destroyed. Anything can be a military objective if it is being used to provide a military advantage. If in doubt, states are supposed to err on the side of caution and consider a place typically used for civilian purposes, like a mosque or a home, as civilian. States are not allowed to target civilians unless the civilians are participating in military activities.

Prof. Combs explained that states have an obligation of due care to make sure their targets are military targets and to minimize civilian casualties. Indiscriminate attacks are illegal. If a state uses a weapon that cannot be sufficiently targeted, or if it treats a large area containing many military objectives as one military objective, hurting civilians, that is illegal. For example, a state cannot just take out an entire city because the city contained many military targets. It is obligated to target only the military targets within the city. Here too there is a proportionality principle. Even if a state is targeting a proper military target, the state must consider whether destroying the target will hurt civilians. They must weigh the probability and amount of harm to civilians against the military advantage. A proportion of small advantage to widespread civilian harm is not acceptable.

The defensive participant also has obligations to protect its own civilians. States are not supposed to locate military objectives in densely populated areas. They have an obligation to move civilians away from military targets. States are not allowed to use human shields for their military targets.

Even if the enemy is not complying with the laws of warfare, that does not give the other state the right not to comply. Prof. Combs clarified. This is because the point of the laws is to be humanitarian, not to assess bilateral compliance. However, Hezbollah publicly adopted the rule that if Israel does not follow the laws of war, Hezbollah would not either.

Hezbollah used thousands of poorly targeted rockets to shoot into urban areas. Some of the more accurate ones were used to shoot hospitals, which suggested that it might have been on purpose. If these allegations are true, Hezbollah is guilty of war crimes.

According to Prof. Combs, there are three allegations of war crimes against Israel. It is alleged that they failed to distinguish military and civilian targets, made indiscriminate attacks, and disregarded proportionality. For example, Israel targeted all Hezbollah members. Hezbollah is a political party that also provides social services. It runs orphanages and hospitals. Some members of Hezbollah were not combatants, but evidence suggests that Israel did not distinguish between military and civilian Hezbollah targets.

Israel did drop leaflets telling people to evacuate the areas they planned to bomb, which was required by international law.

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Israel, continued from pg 3

However, some leaflets said things like “Any vehicle on this road on this day will be hit.” Prof. Combs said that that is still a violation of the obligation to distinguish. Even though a state has warned people, civilians are not obligated to leave their homes. Some cannot leave. Israel was still supposed to try to find out whether noncombatants are in a car. A state cannot just say the noncombatants were warned and then shoot anyone on the road.

Prof. Combs maintained that there were tremendous amounts of civilian damage during the conflict. In Lebanon, thousands of buildings, including homes and apartments, were destroyed or damaged. Twelve hospitals were destroyed and forty damaged. There were strikes on evacuating convoys. One hundred fifty apartment buildings were destroyed and one hundred fifty damaged. This evidence suggests that Israel violated international law. However, Israel claims that Hezbollah put weapons and other military supplies in with all the civilians. Israel claimed that missiles were concealed in condos and apartment buildings. There is some video to support this.

However, many Lebanese said that they were bombed when there were no Hezbollah members or weapons around them. It is really unclear which side is telling the truth. Israel was not allowed to justify its actions because of the presence of a small amount of weapons or Hezbollah in a large civilian area. It was required to look at the proportions of the weapons and Hezbollah to the civilians, and also to look for alternative ways to achieve military objectives. Some argue that Israel did not do this.

Israel targeted many roads and bridges, which are legitimate military targets. This prevented evacuation of civilians and humanitarian aid from the outside being brought in. Prof. Combs informed students that the Human Rights Committee tried to investigate whether Israel targeted roads or bridges that were not necessary to their military objectives but said that there was not a lot of information forthcoming.

Israel also used cluster bombs, which cover a wide area. Many do not go off at the time they are thrown and may blow up an innocent civilian later. It is argued that the use of cluster bombs is indiscriminate. It has been alleged that Israel used most cluster bombs at the end of the hostilities, right before the cease-fire, in order to prevent Hezbollah from coming back.

Prof. Combs concluded the lecture by noting that it is not clear what actions could be taken against Israel or Hezbollah if either was found to have committed war crimes. The International Criminal Court does not have any authority over them because neither Israel nor Hezbollah is a member. The only way they would have to go before the court would be if the Security Council referred them, but Prof. Combs thought the United States would veto that decision. Other states could choose to prosecute individuals if they caught them in their own country. After pointing out the difficulty of that action, Combs opened the floor to questions from the audience.

Stumbling into a Career in Sports Law

by Kelly Pereira
News Editor

Corresponding with William & Mary Homecoming, Richard A. Karelitz, Esq., took time out of celebrating his 35th undergradu- ate reunion on Friday, Oct. 27, to speak to law students about sports law. Karelitz has been General Counsel of the Kraft Group for over thirty years. The Kraft Group is a family enterprise that runs an international paper and packaging company and also owns the New England Patriots (National Football League), the New England Revolution (Major League Soccer), and Gillette Stadium in Foxborough, Massachusetts.

In his opening remarks, Karelitz stressed that the way to become a successful sports lawyer is to become a good lawyer in general by taking classes and gaining experience in a number of different practice areas. Karelitz also pointed out that there are few jobs in this area, so it is especially important to gain experience. The Kraft Group tends to hire laterals who have practiced for 3-6 years and have benefited from training at a large firm. Karelitz said that there are only six lawyers on his staff, but that he (as the “gatekeeper”) outsources $2-3 million in legal work each year.

Karelitz tracked his own career trajectory. He graduated from Boston University Law after receiving an accounting degree from William & Mary. He was hired as a tax attorney by a large accounting firm, just as his mother had dreamed for him. The story could have ended there, but Robert Kraft happened to be a client of the firm. Kraft had just lost his General Counsel and requested an attorney from Karelitz’s firm on a temporary basis. It turned out to be a good match, and Karelitz left his firm employment (much to his mother’s chagrin but at his wife’s encouragement).

It turned out to be a lucky gamble. Kraft’s business grew from domestic to international (now in 80 countries). As Kraft grew more successful, he made investments according to his personal interests. Kraft first bought the parking lot surrounding Foxboro Stadium and then bought the stadium itself. The then-owner of the Patriots intended to move the team to St. Louis, but it was the rent agreement with the stadium that kept the team in Massachusetts. In 1994, Kraft bought the team for $173 million, without the risk of not having a place to play because he owned the stadium, but with the risk of owning a team that had not won any championships (Karelitz said he would have advised against it, but “that’s why he is where he is, and I am where I am”).

Karelitz shared that Kraft’s success is due to his commitment to quality, personnel, and fans. The Kraft Group negotiated with the state of Massachusetts to provide $70 million in infrastructure in order to build a new stadium, Gillette Stadium (effectively keeping the team in-state, rather than moving to Hartford, Connecticut). The old stadium was built for only $6 million while the bathrooms of the new stadium alone cost $25 million. The stadium was built for $325 million total. It is one of only three privately-owned stadiums.

Remarkably, Kraft used private financing but refused to sell seat licensing which would have created a monopoly of season ticket holders. The stadium was completed early and has been catering to sell-out crowds. The Patriots won three Super Bowls in four years: 2002, 2004, and 2005. After the first Super Bowl, Kraft gave authentic Super Bowl rings to all fulltime staff, including the dishwashers. After the remarkable success of the team, Kraft issued rings only to players and critical staff like Karelitz (for the lecture, Karelitz wore his five carat, half pound ring, commemorating the 2005 win with three studded Vince Lombardi trophies, but he admitted that he does not always wear it).

Karelitz shared that he had recently participated in a panel in Boston about sports law. The common theme between himself and the counsel to the other major athletic teams in the city was that they had been in the right place at the right time or knew someone. Karelitz suggested that entertainment law may be a good place for an aspiring sports lawyer to work. Advertising is a good way to get involved in sports. Marketing is very important to the Patriots, who have a Chinese website and will be involved in a project to have a Chinese website and will

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Another advice was that Karelitz stated that being a sports fan or a former athlete may hurt you when pursuing a job with General Counsel. Karelitz said that sports lawyers have to demonstrate their priorities and show that they are not going to use a job for personal reasons. “Sports lawyers are cynical. It’s the nature of the business,” said Karelitz. Karelitz did concede that fans and athletes would have an advantage, on the other hand, in pursuing a job as a sports agent.

A student asked Karelitz whether he thought the New England Revolution was only a side project. Karelitz said that Major League Soccer is a work in progress but worth pursuing nonetheless. What the Kraft Group has discovered is that soccer plays better in smaller, family-oriented venues. The Kraft Group is looking into building a soccer stadium in Boston to seat 20,000.

Another question concerned the decision of the College to give up the Tribe logo to comply with an NCAA ruling. Karelitz said that he vehemently opposed this decision and that the NCAA ruling was moot. It might have been important decades ago but is no longer valid (Karelitz shared that in the 1970s, he was one of only 100 Jewish students at W&M).

At the conclusion of the lecture sponsored by the Office of Career Services and the Sports and Entertainment Law Society, Dean Lewis noted that there is an international Sports Law Association. Karelitz said that this was news to him, but he is willing to answer student questions and provide advice.
Sekulow brings knowledge, experience to Law School

by David Benatar
Staff Writer

On Tuesday, Oct. 31, Jay Sekulow, chief counsel for the American Center for Law and Justice, a religious liberties public interest organization, spoke before approximately 70 students and faculty members in a talk entitled “Public Morality, Individual Rights, and the Constitution: Old Challenges for a New Supreme Court.”

Sekulow, a highly successful attorney who has argued several prominent cases before the Supreme Court, discussed pertinent issues in today’s highly charged political climate, including partial birth abortion, public displays of the Ten Commandments, and gay marriage. Sekulow highlighted the importance of social issues in the Court. “The two big cases before the Court this term will be on partial birth abortion and racial quotas,” said Sekulow. “Abortion and gay marriage will be prominent on the Court’s agenda for the next twenty years.”

Sekulow has been named one of the hundred most influential lawyers in the United States by the National Law Journal and was named one of the 25 most influential evangelicals in the United States by TIME Magazine in 2005.1

“I have never argued a dull case but have sat through many of them,” claimed Sekulow. His record points to the many landmark cases he has argued. Sekulow also discussed the role he had in helping President Bush select the two most recent Justices to the Supreme Court, Roberts and Alito. Even though he was one of only four lawyers outside the Administration to advise Bush on his picks, “At the end of the day, it is [the President’s] call.”

Afterwards, Sekulow fielded questions on his role in helping President Bush select Supreme Court Justices, equal protection analysis, and the role international decisions in other courts should play in Supreme Court decisions. Students left feeling a bit more educated on all these issues having heard from someone who has experienced litigating them firsthand. “I really enjoyed hearing Mr. Sekulow speak,” said LaToya Gray (1L). “He was engaging, knowledgeable, and straightforward. It was refreshing to hear someone with a different viewpoint on social, moral, and legal issues.”

The Sekulow speech was sponsored by the Federalist Society, Chairman Toner demonstrated his commitment to extending those opportunities to W&M Law by encouraging students to contact him at the FEC at anytime.

2 http://www.aclj.org.
Death Penalty Abolitionists Speak at Panel Discussion

by Brooke Williams
Contributor

On Oct. 23, the Christian Law Society and Students for the Innocence Project hosted a panel discussion by death penalty opponents. The Journey of Hope is an organization of volunteers consisting mostly of family members of murder victims opposed to the death penalty.

Murder victims’ family members ought to be at the core of our thoughts when establishing public policy. One reason for the existence of the Journey of Hope is to prove to prosecutors and the world that not every murder victim’s family wants the accused to die. The Journey of Hope’s mission is to inform the public that the death penalty is not all it is cracked up to be and should be abolished.

Virginia has had at least one wrongful conviction in which the defendant had been sentenced to death but later exonerated. According to Randy Tatel, State Death Penalty Abolition Coordinator, Virginia’s death penalty system is “broken and racially biased.” According to him, the number one factor in whether a prosecutor requests the death penalty is the color of the defendant.

One of the main problems with Virginia’s death penalty system is that the average time spent on death row in Virginia is 6.1 years; the average is 9 years in other states. Other than Texas, Virginia has the shortest time interval between conviction and execution. Virginia is also second in terms of how many defendants have been executed since the reinstatement of the death penalty in 1976.

This shortens the time an inmate and his attorneys have to appeal the conviction or possibly prove he was wrongfully convicted. One study conducted by Columbia School of Law found that, nationwide, two out of three death penalty cases have been overturned since the death penalty reinstatement, and in over 80% of retried death penalty cases the defendant is sentenced to a lesser penalty than death.

Greg Wilhoit was wrongfully convicted and served five years on death row in Oklahoma. This is his story: Mr. Wilhoit and his wife had been separated for three weeks when she was murdered. The police had identified a bloody print at the crime scene, but it was not Mr. Wilhoit’s, and the police never found any physical evidence or DNA connecting him to the murder.

Eight months after the murder, Mr. Wilhoit was arrested. The police had gotten probable cause for the arrest from bite mark evidence collected from his wife’s body. Two forensic odontologists agreed that that bite marks on his wife’s body matched his dental records. His lawyers told him that he should make a deal with the prosecutor because the bite marks were very damning evidence. He refused because he did not want to plead guilty to something he did not do.

Mr. Wilhoit then hired another lawyer who was supposed to be the best criminal defense attorney in the state. Little did he know that his new attorney was no longer the best; in fact, he was a drunk and drug addict who had brain damage from a recent car accident. He had just been sanctioned by the Oklahoma Bar and did not have a license to practice law when he took the case.

The new lawyer refused to get a continuance, even though he had taken the case only three weeks before the trial was scheduled to begin. In hindsight, Mr. Wilhoit realized that he should have known something was wrong when his attorney took a capital case for only $2500. The attorney promised a hung jury but did not investigate in any way or challenge any of the prosecutor’s evidence. Mr. Wilhoit was the only witness in his own defense. The jury convicted him in less than three hours.

While on death row, he was assigned to cell 13, and spent 13 Friday the 13ths in that cell (he is a very superstitious man!). Mr. Wilhoit had been a proponent of the death penalty all his life and was not about to change his beliefs just because he was on the business end of a death sentence. Apparently he was the only one on death row who felt this way—imagine that! Mr. Wilhoit continued to feel this way for the first three years he spent on death row.

Eventually, the state of Oklahoma appointed him a public defender for the purposes of his appeal. His new attorney decided that his first action would be to examine the bite mark the state had matched to Mr. Wilhoit. The prosecutor’s office at first refused to turn the evidence over, and it took them a long time to finally do it. This is not uncommon—prosecutors and the government they represent do not like convictions overturned or admitting that they were wrong, even at the expense of the truth and the lives of wrongly-convicted persons.

Mr. Wilhoit’s attorney sent the bite mark evidence to twelve experts who were to examine the evidence blindly. This means that each expert gives his opinion without knowing whether he is working for the prosecutor or the defense and also without knowing what conclusions others experts have developed. Then the conclusions were collected, shuffled, and sent to the twelve experts, also blindly, so that each conclusion could be reexamined by a different expert. Each expert found at least twenty discrepancies in the original findings of the forensic odontologists that testified at Mr. Wilhoit’s trial.

Mr. Wilhoit was granted an evidentiary hearing based on this new evidence. The judge found as a matter of fact that the new evidence was compelling and that this issue should have been raised by the trial attorney. The judge found that Mr. Wilhoit should receive a new trial based on ineffective counsel. After five years in jail, Mr. Wilhoit was finally released on bond pending a new trial.

The new trial court judge banned the prosecutor’s original experts from testifying at the new trial; neither one of them were qualified as experts in the field of forensic odontology. The first expert had been out of dental school less than six months when he testified at the first trial, and the second expert was not really a practicing dentist but rather a professor of ethics at a dental school. At the end of the prosecutor’s case, Mr. Wilhoit’s attorney made a motion for a directed verdict of innocence. The judge granted the motion.

Although Mr. Wilhoit was able to lead a productive life after being released, not every exoneree is so lucky. Mr. Wilhoit met Ron Williamson in prison and became close friends with him. Mr. Williamson was another wrongfully-convicted man and the subject of John Grisham’s first non-fiction book, The Innocent Man. Mr. Williamson did not adjust well after his release and died two years later.

Students from all sides of the political spectrum are welcome to come to the Federalist Society events. The Federalist Society hosts a variety of speakers throughout the year, as well as several educational and social events. For more information on the Federalist Society, please contact Will Sleeth at wwslee@wm.edu, or visit the Federalist Society’s national website at www.fed-soc.org. For more information on Jay Sekulow, please visit the website of the American Center for Law and Justice at www.aclj.com.
1L Writes First Scientific Study of Presidential Rhetoric in Lead-up to Iraq War

by Aaron C. Garrett
Contributor

Alan Kennedy-Shaffer, the author of Denial and Deception: A Study of the Bush Administration’s Rhetorical Case for Invading Iraq, held a book signing at the William & Mary Bookstore on Thursday, Nov. 2. While Kennedy-Shaffer’s title may belie his political orientation, the book proves to be an interesting study of the power of presidential rhetoric and provides a concise recount of recent political history. Denial and Deception will either anger or invigorate its reader, but any writing that can provoke such visceral response is a success.

Kennedy-Shaffer is a Features Editor for The Advocate. He purports that his book is the first quantitative analysis of the Bush Administration’s rhetoric relating to the Iraq War, and he seems to be correct. Kennedy-Shaffer limits his analysis to presidential speeches and those of other high-ranking Administration officials. Aside from the President, he focuses on statements made by Vice President Dick Cheney, Secretary of Defense Donald Rumsfeld, and National Security Advisor/Secretary of State Condoleezza Rice. In order to conduct his analysis, Kennedy-Shaffer first limits his study to three distinct periods of time. The first, which he calls the “Pre-War Period,” starts on September 11, 2001 and continues up to the middle of March 2003. The second, called the “War Period,” runs from the middle of March 2003 until the infamous “MISSION ACCOMPLISHED” speech at the beginning of May 2003. The third, called the “Occupation Period,” runs from May 2003 until the State of the Union address in 2006.

After identifying these periods, Kennedy-Shaffer breaks down the periods into individual weeks. He assigns each week using a computerized random number generator, and then randomly selects seven from each period to evaluate. Kennedy-Shaffer then analyzes each document available on the Iraq War section of the White House’s website for what he calls “misleading statements.” A statement is misleading if it was made contrary to information of which the White House was or should have been aware at the time the statement was made. He comes to this conclusion by analyzing intelligence documents produced by the CIA, House and Senate Intelligence Committees, and the White House itself, and then comparing the information in those documents to the statements made by Administration officials. Crucial to his study is that Kennedy-Shaffer limits this comparison to documents that were available to the Administration prior to when the statements were made. The misleading statements are then tallied according to certain pre-determined categories, such as Weapons of Mass Destruction (WMD), Saddam Hussein’s links to Al-Qaeda and international terrorism, the time requirement for Operation Iraqi Liberation (later changed to Operation Iraqi Freedom), and others.

Kennedy-Shaffer admits that he is not able to evaluate all of the information available to Administration officials at the time the statements were made because he is limited to declassified files. He does not believe that this should significantly affect his study, however, because the Administration benefits from declassifying only the most favorable intelligence. Additionally, Kennedy-Shaffer attempts to insulate his study from selection bias through the randomization process and by limiting his study to documents available on the White House website, which were selected for public consumption by the White House itself. If anything, he argues, limiting the documents selected in this manner would skew the analysis in the Bush Administration’s favor.

In spite of these “favors” given to the Administration, Kennedy-Shaffer reaches some damning conclusions. He concludes that President Bush and other high-ranking Administration officials manipulated public opinion with literally dozens of misleading statements during the Pre-War Period, which translated into the backing it needed to press Congress into supporting the war. According to Kennedy-Shaffer, the Administration’s spin machine was in high gear during the War Period. While this is the shortest period he analyzes at just under two months, it produces the greatest number of misleading statements. Kennedy-Shaffer attributes this to the need to build a foundation for statements made in the Occupation Period creating alternate justifications for the war, since it was becoming clear by the end of the War Period that the supposed WMD were not going to continue.

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Abolitionists’ panel, continued from pg 7.

from a smoking-related illness.

Vera Crutcher’s son, Donald, was murdered. He was killed outside of a house where he was attending a party, right down the street from his parent’s home. He was killed because he was trying to protect his girlfriend from being assaulted by several men who had attempted to attack her. Mrs. Crutcher and her husband were not even allowed to view the trial because the judge ruled that their presence was too prejudicial.

Only one person was convicted for murdering Donald Crutcher, and he was sentenced to only seven years in prison. That person eventually got out of prison and was killed when he tried to assault a pizza delivery man. Mrs. Crutcher’s other sons wanted to find the other men who had killed Donald and take revenge, but Mrs. Crutcher would not allow them to do so.

Even after all that she has suffered, Mrs. Crutcher is an opponent of the death penalty and member of the Journey of Hope. She does not want the state to kill someone else in her name, and she requests that we as law students work to change the system. She hopes for a miracle—that the death penalty will be abolished in her lifetime. She is 72 years old.

Since 1976 when the death penalty was reinstated, there have been no known cases in which an innocent man was put to death. Still, there are several reasons why the death penalty should be abolished. Death is final and does not allow for rectification—wrongly
We Know What You Did Last Summer...

Every year the Public Service Fund, in cooperation with the Law School, provides financial support to a large number of William & Mary students during the summer so that they can pursue opportunities with government and public interest organizations. Each issue of The Advocate will feature stories authored by the sponsored students.

Working with the U.S. Attorney's Office:
A fascinating experience made possible through PSF

by Cara Goeller
Contributor

This past summer I was fortunate enough to work at the United States Attorney’s Office in Wilmington, Delaware. The office is home to both the civil and criminal divisions in the District of Delaware. With about twelve attorneys on staff, the three summer interns were a welcome addition to the office. The office environment was congenial and conducive to learning. Nearly all of the office doors remained open throughout the day, and the attorneys were more than happy to speak with the interns. Working under a single supervisor (who loaned us out to the other attorneys as needed), we were immersed in the federal legal system through daily legal research and writing assignments, frequent visits to the federal courthouse, visits with several federal agencies, and informal meetings with the District Court Judges.

My assignments varied, but the most fascinating assignments I received happened to be my first and last. The first assignment I was given was to listen to a recording of a conversation between a police informant and two local drug dealers. The first few times I listened to the tape, I was able to decipher only a few words, but I slowly learned the language and the street names for various things and people. After about a week I was able to transcribe the tape. The work was tedious and frustrating, but I thought it was fascinating, and I appreciated the exposure to a major case the office was pursuing. This case was reflective of the office’s ability to have an immediate impact on the local community. My last assignment, however, was more indicative of the office’s national focus and influence. This assignment was an appellate brief for an asylum case in which a young Albanian woman was seeking asylum to escape from men she claimed were going to kidnap her and sell her into prostitution. I was able to read through her application and the supporting materials, as well as the legal documents that had been filed. The case was intriguing and heart-wrenching as the young woman had not met the legal standard for asylum and was going to be sent back to Albania. The case piqued my interest in immigration law and asylum laws in particular.

In addition to the legal research assignments, we interns were encouraged to sit in on as many legal proceedings as we could to broaden our understanding of the legal system. We were able to sit in on prisoner proffers, depositions, inter-agency meetings, and a variety of court hearings. The court hearings were probably the most beneficial. I was able to see nearly every type of hearing including initial appearances, sentencings, guilty pleas, change of pleas, and motions in limine. Because many of the government’s cases settle, the office only takes, on average, two cases per month to trial. During my internship, one case went to trial and we were able to sit in on the whole process, including the jury selection. Observing both the in-court and out-of-court proceedings was educational and informative.

Our supervisor also set up a number of visits with federal agencies. These included the Office of the Medical Examiner, the Secret Service, Probation and Pretrial Services, and the United States Marshals Service. Each agency had a unique mission within the federal legal system, and the individuals we met with were passionate about implementing their respective missions. Visiting with these agencies allowed me to understand how the federal agencies work together to safeguard the community. We were also fortunate enough to be able to visit with all of the District Court Judges. The District of Delaware has four District Court Judges. The range of personalities and approaches to their jobs was astounding. All, however, recognized their role in the legal system and their ability to effect change in the community. The Judges also all spoke about the isolation associated with being a Judge and how they individually coped with these feelings. Speaking with them was a unique experience and furthered my understanding of the legal process.

The range of experiences that I got this summer was incredible. I am grateful to have had this opportunity, and I would like to thank the Public Service Fund for the generous funding that made it possible.

A Fulfilling Public Sector Experience with the Virginia Legal Aid Society

by Megan Clark
Contributor

The summer after my first year of law school, I decided that I wanted to work in the public sector. I spent time working in the Farmville office of Virginia Legal Aid Society, Inc., and as a whole my experience was a pleasurable one. Throughout my time there, I gained both legal experience and life experience through the people I came in contact with.

Before beginning my work with Legal Aid, I had minimal knowledge about what services were provided. Although I knew that Legal Aid served the indigent people of a given community, I was unsure about the types of cases I would be dealing with. Fortunately, I was exposed to a number of different practice areas including (1) uncontested, no-fault divorces, (2) landlord-tenant disputes, (3) child support cases, and (4) adverse possession of property. I was also able to attend court proceedings pertaining to some of these practice areas.

I was surprised that the majority of my work with Legal Aid dealt with clients desiring to divorce their spouses. The Legal Aid office I worked in was located in my hometown, and I had no idea that so many people were in such unfortunate marital situations in the area in which I lived. I quickly learned that, in uncontested no-fault divorces, the majority of the work I had to complete was paperwork. Through dealing with the influx of divorces, however, I gained more knowledge than simply about the divorce process itself. I also came in contact with a variety of different people who were seeking divorces for a variety of reasons. I gained a better understanding of these people as they told their various stories about their marriages, their lives, and how Legal Aid has helped them with their many legal issues. Being that Legal Aid only serves indigent people, it was interesting to learn how some of these people have ended up in the socioeconomic positions they are in. This helped to dispel some of the stereotypes lurking in my mind, as well as help me be a more empathetic person

Continued on pg 11.
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Before beginning my work with Legal Aid, I had minimal knowledge about what services were provided. Although I knew that Legal Aid served the indigent people of a given community, I was unsure about the types of cases I would be dealing with. Fortunately, I was exposed to a number of different practice areas including (1) uncontested, no-fault divorces, (2) landlord-tenant disputes, (3) child support cases, and (4) adverse possession of property. I was also able to attend court proceedings pertaining to some of these practice areas.

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Through my experience at Legal Aid, I was also able to improve my research abilities. I appreciated the variety of cases I had to perform research tasks for, and I also appreciated having to utilize both my computer-oriented research skills and my book-oriented research skills. I believe that having to perform both types of research will prove to be very helpful throughout the rest of my time at law school and any future clerkship I may have, as I will have to continue to perform research for a variety of different topics.

Lastly, my experience at Legal Aid provided me with my first opportunity to be exposed to the practice of law. Although I knew that I was interested in learning more about our legal system when I applied to law school, I was unsure if I wanted to pursue a career in the practice of law. After my experience with Legal Aid, I am pursing the practice of law more vigorously because I know that it is something I want to do. I am also thankful that Legal Aid provided me with experience in a variety of areas because I was able to solidify some of my beliefs about what types of law I want to practice.

I am very grateful for my experience at Virginia Legal Aid Society, Inc., and I believe that I benefited more from my work in the public sector than I would have if I had worked for a firm. Personally, I am gratified through helping people who are in need and who do not have the resources to obtain such help. At Legal Aid I was allowed to work with such people. I am not insinuating that people who work for law firms do not have such experiences, but I do believe that spending my summer working in the public interest sector was a good fit for my personality. As I continue to learn about the legal system and as I search for summer employment for 2007, I believe I will explore further opportunities in the public interest sector. My experience at Virginia Legal Aid Society, Inc. was a pleasurable one, and it has increased my interest in serving the legal needs throughout any community in need.
Look to this space for news about speakers and other major events at the law school. If your organization has an event in the next month you would like advertised, please e-mail TheAdvocateWM@gmail.com.

**November 8**

Flu Shots: Health Center reps will distribute flu shots in the law school lobby from 10:00 a.m. until 11:30 a.m. The cost is $25.00 per person.

BLSA Save Darfur Campaign
As part of the SAVE DARFUR Campaign, William & Mary BLSA chapter will be wearing red and preparing care kits to be sent to Darfuri refugees. To donate a complete kit or individual items, please bring your contribution to BLSA’s table in the law school lobby on Wednesday, Nov. 8 from 9-3 and Thursday, Nov. 9 from 9-3.

**November 9**

Building a Law Practice Within the Family: Jeannie Dahnk ’85 will discuss work-life balance issues, the role of bar activities in building a practice, and the challenges of working in a successful family business. Her firm, Glover & Dahnk, represents clients in litigation, arbitration, mediation, and administrative proceedings in Northern Virginia. In addition to her busy practice, Dahnk recently served as the President of the Virginia State Bar. She and her husband, Bill Glover ’86, continue to serve in various bar leadership roles. Her informal presentation is sponsored by the Journal of Women & the Law and will take place in Room 133 at 1:00 p.m.

**November 10**

PSF Singer/Songwriter Showcase: Members of the law school community perform classic hits and original material. The list of performers includes Steve B., Seth Carroll, Michael Ciminesi, Ian Hoffman, Richard Neely, Nathan Pollard, Tom Poole, Matt Roessing, Leondras Webster, Will Woolston, and Daniel Zoller, with special appearances by Professor Erin Ryan as well as Dean Brian Lewis and his wife, Mary. Beer and wine will be served. The Showcase will be held at 327 N. Henry Street at 7:30 p.m.

**November 13**

Lecture by Ken Feinberg, sponsored by American Constitution Society: Mr. Feinberg, administrator of the 9/11 Victim’s Fund, will speak on mass tort reform in America. The talk will take place in Room 120 at 1:00 p.m.

**November 16**

BLSA Thanksgiving Basket Competition Judging: Get together in your Legal Skills firm or other organization and design a Thanksgiving basket with non-perishable foods, gift certificates, and more. The firm or organization with the best basket will win a pizza party for the entire group. Judging will take place in the lobby at 1:00 p.m. If you have any questions, contact Megan Clark at mlclar@wm.edu.

**November 17**

Dedication of Room 120 in honor of Timothy J. Sullivan: Event will take place in Room 120 at 4:00 p.m.

**November 20**

Robert Bauer, guest speaker for the American Constitution Society
Robert Bauer, a partner from Perkins Coie LLP in Washington, D.C., will speak about Congressional redistricting, campaign finance reform, and felony disenfranchisement in this voting rights discussion. The talk will take place in Room 124 at 1:00 p.m.
Bush rhetoric study, continued from pg 8.

In the end of his book, Kennedy-Shaffer follows the fall of President Bush’s public approval rating and attributes this to one overriding factor: the cumulative number of casualties suffered by the American armed forces. Kennedy-Shaffer traces a direct correlation between the increasing number of American soldiers who have died in Operation Iraqi Freedom and the decreasing public support for the President and the Iraq War. Importantly, Kennedy-Shaffer does not correlate this to a decline in the support for American forces overseas, but directly to the Administration itself.

Complicating this grim reality is an irony that continues to haunt the Administration and the GOP to this day. Kennedy-Shaffer postulates that the Administration was so effective in convincing the American public about the need to remove Saddam Hussein because of the threat of WMD that, now that the message has proven to be largely false or misleading, the Administration and its Republican (and even Democratic) supporters are having a hard time getting away from those earlier statements. Kennedy-Shaffer’s quantitative analysis reveals this by showing that, despite the fact that the highest number of misleading statements were made during the War Period in order to shift the public rationale for the war, the public simply did not buy it. This is precisely because of the success in convincing people about Saddam’s threat from WMD. Kennedy-Shaffer hopes this irony will be actualized with a Democratic takeover of Congress in the midterm elections. And he will not have to wait long to find out, as Nov. 7 is right around the corner.

Abolitionists, continued from pg 8.

Fully-convicted people cannot be brought back after they die if the government finds out that it killed innocent people.

Contrary to popular belief, killing the defendant does not bring the murder victim’s family closure, nor does it deter others from committing similar crimes. Of the thirteen states that do not have the death penalty, their murder rate is 48-106% lower than the murder rate of the states that do. Texas’s murder rate has not gone down even though it has killed the most people since the reinstatement of the death penalty (106 according to a New York Times study and subsequent article).

The death penalty is not cost-effective. It costs more to kill someone than to keep him in prison for life. Virginia has executed between 93 and 97 people since the reinstatement of the death penalty. With that money we could enact more laws that actually prevent crime, put the money in a victims’ rights fund, and put more police officers on the street to protect the public.

These are some of the reasons why Virginians for Alternatives to the Death Penalty (VADP) and Journey of Hope members oppose the death penalty in all cases. In fact, they are leading the way in campaigning for the Governor of Virginia, Tim Kaine, to consent to a moratorium on setting execution dates pending an exhaustive investigation on how the state applies the death penalty. After the results of the investigation are made available to the public, VADP and the Journey of Hope want Virginians to make the choice, by use of legislative avenues, to discontinue use of the death penalty.
Every Friday night, something magical—or highly disturbing, depending on one’s point of view—takes place here in Williamsburg. No, it isn’t that Asim Modi actually makes himself presentable, as even Friday nights don’t warrant such behavior. I am referring, of course, to Karaoke Night at the Ho-House. Anyone with an ear to the street, or audacious enough to brave the scene each week, knows that some of our fellow law students actually live for this night. Here, we can only do our best to commemorate them.

Not only is the Learjet a star athlete with some notorious lineage, he is also lesser-known as a “punster.” For those of us born after the year 1600… well, nobody really knows what a punster is. Evidently it is one who has a way with puns. And, at least according to his grandfather, the Jet is one such man. Grandfather Leary has said it is because of the Learjet’s “straight face,” but how this relates to puns escapes this writer.

Much of Learjet’s love for karaoke is borne out of his passion for his alma mater: the State U. of New Jersey. There, he memorized his favorite tune (next to “Born to Run” and “Shot Through the Heart,” of course)—the Rutgers fight song. Thus, when warming up his vocals before Joni at the Ho House, one might hear the Jet screaming: “Ra Ru Ra Ru Ra, Hoo Ra, Hoo Ra, RUTGERS Ra, Upstream Red Team, Red Team Up Stream, Ra Ra RUTGERS Ra” while pumping his fist in the air.

But what would this brief piece be without revealing the Learjet’s favorite Ho House moment? Everyone feels a certain bodily sensation when Bon Jovi is first heard on a Friday night. For some, it’s nausea. For Lear? Well, a direct quote is necessary here: “My favorite Ho-House moment would have to be when Bon Jovi comes on; that just beats out Will’s ‘I Like Big Butts’ rendition. Even though I’m not a New Jersey guy it brings back college memories. Something inside hits me man. I love it. I am comfortable enough about my masculinity to say that.” I’m not sure anyone should be that comfortable, but, well, that’s the Learjet.

For those who might think that just anyone can go and do karaoke on a whim, Alison Stuart (2L) proves them wrong. With twelve years of ballet and scores of frat parties under her belt, Alison has the perfect Ho House resume. She has found that even though she brings a certain amount of grace to both ballet and karaoke, the latter works far better when under the influence. Indeed, through exhaustive research in the field, Alison has found a direct correlation between how much she drinks and how much she loses control of her facial movements and articles of clothing while dancing. For all those excited by the last sentence, there’s one caveat: this aforementioned losing of dignity only really goes down when accompanied by the Ho House “townie” contingent. Alison confirmed to BLAWGS that a video of her cozying up to a townie on an otherwise empty dance floor during her birthday bash does exist. YouTube viewers breathelessly wait.

As for a Ho House highlight, Alison looks fondly upon a night she did a dynamite rendition Del Amitri’s “Roll to Me” with her fellow BLAWGS subject, Dan “Will Sleeth” Leary and 2L Jamie “Lacks A Law School Doppelganger” Watkins. Though the song was well received, Alison was heartbroken to find that not only does Leary only lip sync, he is also lousy at it and doesn’t even move his mouth to the words. “Roll to Me” might be the song of Alison’s greatest Ho House triumph, but she’s got a solid catalog of songs she likes to perform. No song truly stands out, but Alison is big on the generic girl favorites such as “Like a Prayer,” “It’s Raining Men,” and “Livin’ on a Prayer.”

Despite any ridicule she receives from The Advocate’s “Don’t Take Me Too Seriously” guy, Alison remains a Ho Houser through and through and has this bit of advice for those who aspire to Ho House glory but are too nervous to try: “Just ignore the haters and ‘do your thang.’ Also, make sure to have plenty of alcohol.”

Continued on pg 13.
The Soul's Modern Crisis

by Will Sleeth
Contributor

It has become almost passé to pronounce the failure of modernity. Everyone from radical Islamists to Nietzschean nihilists have commented on the profound spiritual crisis that the West finds itself in. Sayyid Qutab, the radical Egyptian cleric who provided the spiritual inspiration for Osama Bin Laden, advocated an Islam that rejects modernity, saying that radical Islam is the only solution to “this unhappy, perplexed, and weary world.”

Though the Islamist appeal will never resonate with most Americans, the Nietzschean appeal largely has. But is this a good thing? Before we can judge the merits of Nietzschean thought, we must turn to the origins of modernity itself.

The genesis of modernity can be traced to Machiavelli and his reconception of political philosophy. Ever since Socrates brought philosophy down from the clouds, and throughout the Greek, Roman, and Christian ages, the ultimate end of man—his teleology—was understood to be his attempt to perfect his soul. This worldview that man’s purpose is to seek virtue—whether in the Aristotelian or Judeo-Christian form—claimed certain fundamental beliefs: the world is teleologically organized, human nature exists and can be known by man, there are absolute universal values grounded in human nature, and man has a soul. The upshot of this foundation was that the political order—the polis—should be oriented towards the pursuit of man’s virtue.

Such an arrangement did not come without costs. If virtue is man’s end, then wars will be necessary to preserve the virtuous city. If the soul should seek purity, then those impeding such an endeavor must be restrained. The pre-modern worldview knew that man, while capable of great philosophy and reverence for the divine, was also in need of strict discipline, training, and restraint. The pursuit of pleasure was subordinated to the demands of virtue.

In Machiavelli’s reconception of political philosophy, he sought to change all that. Machiavelli looked at the wars of the past fought of matters of the soul and concluded that if man could be induced to surrender the concerns of the soul, he could in turn secure the safety of the body. If the city did not value the soul above all else, what reason would it have to fight? Thus, Machiavelli advocated a virtù—diametrical to the virtue of the classical philosophers—that sought to abolish the concerns of the soul and focus man on the temporal political reality. The sad news was that God was dead, but man would be safer at least while he was on this earth. Man’s deepest longings and desires would be sacrificed for a modicum of security and health.

This view found its first practical application in the writings of Locke and Hobbes, and thus the first modern governments were founded upon the notion of modern natural right.

But it was not long until the arrangement ran into problems. Realizing that the concurrent capitalist arrangement could not fulfill man’s spiritual desires, Rousseau proposed “history” as the source of moral and political guidance. This second wave of modernity was then surpassed by Nietzsche’s third wave: nihilism.

Nietzsche recognized that the God that Machiavelli had killed really was dead, and therefore claimed that man is in fact beyond good and evil. Free to postulate his own existence, man should return to his pre-Socratic yearnings, where the will to power suffices as morality. It is difficult to underestimate the extent to which the Nietzschean critique, in various shades, has penetrated into American intellectual life today. The tolerance of gratuitous violence, the collapse of a proper conception of eros, and the general ridicule of all matters relating to the soul are only the most visible manifestations of this ailment. The upshot is a relativism that has descended into nihilism. Even our highest Court says that we have a right to define our own concepts of the universe.

The path from Machiavelli to our present nihilism has been a winding, but continuous, one. Contrary to Nietzsche’s assertion that he provides a solution to the problem of modernity, his thought is the logical culmination of modernity. But there is a way out.

The crisis of modernity has opened up the possibility of a return to the pre-modern. By throwing off the constricting strictures of modernity and its natural evolution into Nietzschean nihilism, we can once again take seriously the Socratic philosophical tradition as well as the Judeo-Christian tradition. Such a return would consist of a serious study and contemplation of the Greek philosophical texts and the Bible. This understanding rejects a historian reading of the texts, and rather incorporates the notion that the ancient texts can actually speak to us today, can actually apply to our circumstances, and can actually provide us with guidance. But most importantly, it assumes that they can actually nourish our souls. This is precisely why so many moderns have vehemently sought to eradicate the Great Books curriculum and abolish the Bible from public discourse. Only the Greek and Judeo-Christian texts can satisfy the deepest longings of our souls and provide a way out of our current nihilism.

There is no task as urgent and no goal more worthy than restoring the authority of the Greek and Judeo-Christian texts. The future of our moral and political order depends upon it. But more importantly, so do our souls.
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**Sweeter than Shug:**
**Dating According to David Bules**

by David Bules  
*Staff Columnist*

The topic of this week's column was suggested by the 1L class: the role of text messaging in law school. We're all guilty of texting people of the opposite sex while we are at the Leafe and they are at Paul's, or even when they are five feet away at the opposite end of the table at the Leafe. So let's talk about the good, the bad, and the ugly of the text messaging world.

There are plenty of legitimate uses for text messaging. Some of them include asking what someone wants from Chipotle, asking for an address on the way to a party, or asking what date Thanksgiving break starts. There are also plenty of illegitimate uses of text messaging, such as those stupid "send me a joke" ads on TV, voting for American Idol, and saying "hey." The most illegitimate use of text messaging, though, is for relationship or hook-up talk.

Believe it or not, some people prefer texting to calling, even when it is for a booty-call. If you type it, no one hears you give the cheesy pick-up line or ask the person to meet you at his or her place in fifteen. Some of my friends graciously offered up some recent text messages they received.

**Situation 1:** Girls have a boyfriend; girl is a "grace is always greener," or shall we say, "guy is always hotter" type girl; girl has been befriending guys who she does not call her boyfriend. For the actual text messages from said girl to non-boyfriend (notice they go from mild to extreme, pretty quickly): a) u r hot [kissy face emoticon], b) I like u [smiley face emoticon], c) you couldn't handle this, d) I'm not wearing any [under garments], e) do u have a video camera?

What's wrong with situation 1: Well, first off, the girl has a boyfriend. Clearly this is not OK. Further, you might think you are subtle, but odds are you are with your friends and they are going to suspect something is going on. And another thing, when you start moving into statements like c), d), and e), you have clearly reached the point of no return. You not only know you are going to have your cake—you're going to eat it too. Every…last…bite. And I wouldn't be surprised if you did something weird with the frosting.

**Situation 2:** Guy and girl are standing within five feet of each other at the bar; guy and girl both have phones open, obviously texting each other; guy and girl are so not fooling anyone. Survey says this back and forth banter goes downhill quickly: a) so…who's that guy? b) I am so wasted [winky smiley face emoticon], c) where are all your friends? d) you know she's an undergrad right? [shouting face emoticon], e) taxi's outside.

What's wrong with situation 2: Again, subtleness is a virtue. This is blatant. You might as well be making out in the bar. Say, hypothetically, you two do go home together, do hook up, do date for a while, and hell, do get married. Can you imagine standing at the altar texting each other "I do" from one foot away and simultaneously receiving a text from the priest that says, "Jesus Christ, get it over with…just text the bride"?

**Situation 3:** Guy and girl are in a relationship; guy and girl happen to be in two separate places that night; texts go something like this: a) so who are you there with? b) […]20 minutes later] a bunch of people, c) that bitch isn't there, is she? d) who? e) whatever…you know who I'm talking about, f) I don't know, there's a lot of people here, g) guess I'll just talk to you later.

What's wrong with situation 3: This is not as bad as situations 1 and 2. In fact, I'll admit I've partaken in this sort of texting before. I had a friend in high school (pre-texting era), the infamous Brady, who would answer his phone with the same three statements every time. We always knew it was his girlfriend calling when he answered with, consecutively: "With the guys," "What are you talking about?" and "No." What were the questions you might ask: "Where are you?" "Who is she?" "Is Christen there?" Now, granted, his girlfriend was certifiably psycho, but this is the typical conversation that is carried out via texting now. I know it may be loud at whatever party you are at, and I know you may not want to give detailed answers, but save the partygoers some comedic material by just calling each other. By the way, in case you didn't notice, this situation goes both ways. Guys, we are just as guilty as girls.

So to sum this all up, you can text whoever you want, whenever you want, about whatever you want. Just be prepared for your friends to get annoyed and/or make fun of you. I'll leave you with a few facts from my friends about texting. One person has actually started a relationship through texting. One person has a cell phone plan with more text messages allowed than minutes of airtime. One person has actually dated a person solely over text messaging. Thankfully, people have not yet figured out how to make out over text messaging. I wonder what we'll see next.

Until next week, keep livin' strong and lastin' long.

*Certain law students, who have chosen to remain nameless, contributed to the content of this column.*

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1 We have started a new thing called "The Chipotle Express." This consists of whoever is coming back from D.C. on Sunday to call and take orders and then stop at a Chipotle of their choice and subsequently deliver to all friends in Williamsburg. Please contact myself or Ryan Browning to sign up. On second thought, don't. That would crash my e-mail.

2 A) He probably could. 2) Could you handle him? 3) He has a boyfriend.

3 Point for her: Cougars are where it's at.

4 He probably does know who you are talking about, but he's not going to say her name, for fear he might say another name you haven't even thought of yet.

5 Solid answer dude. I think you convinced her.

6 Point for her again. Now he's going to get mad and you have the upper hand and you aren't going to answer your phone when he calls you in five minutes.
Happy Birthday Steve Cobb (because I didn't get a t-shirt):

"Don't Take This Seriously, But..."

by Nathan Pollard
Staff Columnist

When thinking about what to write about for this week’s article I thought I would switch gears a little from last edition’s rant, since it didn’t seem to change the world as much as I had hoped. The roller-bag girls seem to be getting more restless and violent every day as their numbers increase. Please know, however, that my hatred for and resolve against roller-bags remain strong, even if I have to take it underground (much like the early Christians as they fought against persecution by the Romans). I have received enough emails in support of the anti-roller movement to know that this isn’t the end of the issue...

If you had told me when I was in high school that I would find myself living in Williamsburg, Virginia for more than three months, I probably would have hesitated, chuckled, and then walked away (because I was like 5’10,” ninety pounds, and would have been scared of disagreeing with you). Thirty-seven years, a bachelor’s degree, and almost one-half of law school later, here I am, still living in Williamsburg. To learn the deep intricacies of Williamsburg takes about 30 minutes; to understand the basics, however, takes at least six years. Why, for example, the city’s residents refuse to allow college-friendly establishments anywhere remotely near the students is something that doesn’t take long to understand—old cranky people, who are so close to the end they decide to move down to the “warm and beautiful climate” of southern Virginia, decide to get on the City Council (because 80 years ago they used to be a judge/professor/nice person, and since that part of their lives is gone they need something to do when they wake up at 6 a.m.), and vote against anything that serves both utility and aesthetics because they hate anything with the hope and possibility of life.

The one thing about Williamsburg that I have extensively studied Continued from pg 19.

CANADIAN BACON:
On Fascism, Dead Snakes, and Footnotes

by Matt Dobbie
Staff Columnist

I want to start off by talking about my column in our last issue. It wasn’t very good. In fact, it pretty much sucked ass. This is partly my fault for writing a lousy column, but it is also the result of a mix up here at Advocate headquarters. The column I handed in to my editors contained a number of footnotes, which, in my opinion, made the column infinitely better and funnier. Sadly, these footnotes were noticeably absent in the copy of my column that actually ran in the paper. There is no doubt in my mind that this is the result of some fascist conspiracy by my editors to stifle my independent thoughts or (and this seems far less likely to me) the result of a simple computer malfunction.

This “unfortunate mistake” is yet another example of the stifling censorship I’m faced with every week. Dobs, you can’t write about hockey; Dobs, no one cares about the Maple Leafs; Dobs, you have to wear pants. It’s just one arbitrary rule after another. You don’t even have to work here to see the Big Brother tactics at work—just turn to page two of the paper and read the fine print about letters to the editor.1 Basically, we reserve the right to edit the letters for content and space—yet another blatant attempt to curb free speech here at The Advocate. Well, at least it would be, if (1) we actually published letters to the editor, and (2) someone ever wrote one.2

The resulting mix-up did have a silver lining, as it gave me a chance to gauge the effectiveness of my humorous footnotes. Apparently some people find them annoying (Goth Erinn, while others find them to be hilarious (Matt Gaetz). Because I use them, it’s pretty clear that I fall into the second camp. But, I understand the reasoning and complaints of those in the first camp. Basically, they think the use of the joke footnote has gotten out of hand in The Advocate.

In previous years, both myself and Nicole Travers, who wrote the “Sex and the Law” column, used them quite profusely. This year it seems all of the humor columns in the paper are utilizing this same tactic.3 It has become too common and has lost the originality that made the practice funny in the first place. Also, just so we’re clear, I’m including the “Dating with David Bules” column under the heading of “humor” because I refuse to believe anything that ludicrous should be regarded as anything but a joke.4 While I’m on the topic: Bules, if you could please write another column about weird dating terminology that only you understand (faux dating, non-dating, I-like-the-girl-but-I-don’t-really-like-the-girl-so-I’ll-give-her-that-awkward-hug-where-I-stick-out-my-ass-dating, etc.), that would be great. Thanks.

Sorry to go off on a tangent there, but the point about excessive footnotes is well taken—using too many footnotes does tend to break up the flow of the column. Why do I use them? Well, for starters, my fascist overlords here force me to, and, second, I think it’s a pretty clever humor device. I like footnotes that don’t mean anything and think they provide some added jolt to the column. Also, I find they are a perfect way for me to tell a story which is somewhat related to the column but not really.5 Truth be told, lately (as my last column can attest) they’ve been the only way I can find to inject some humor into some otherwise lame columns. A smarter column will lead to fewer humor-necessitated footnotes.

I think the solution here is fairly obvious—I need to write better, and you guys need to stop complaining. Since I can’t fix the latter, I assure you I’ll fix the former. Check back in two weeks to see if I make good on my promise. Cheers.

1 Unless of course they’ve removed it to make me look foolish.
2 Editor’s note: We have, in fact, published numerous criticisms of Mr. Kennedy Koizumi Gore Shaffer’s column, and we are publishing a letter to the editor about bathroom cleanliness this week. So there! Now what, Dobs? Go back to singing “Oh, Canada” alone in your room. Without pants. And what did we tell you about criticizing us in a public forum? You’re lucky this column didn’t get “lost,” too.
3 Editor’s note #2: This just isn’t true. Unless, if by “humor column” you mean the “dating column.” Damnit, Dobs, get your facts straight.
4 Editor’s note #3: OK, glad you cleared that up.
5 I’m kidding here. In reality I just like throwing the words “fascist overlords” and “fascist conspiracy” around. That, and I’m bitter my column got screwed up last week. F***ing fascists.
6 Usually, these stories revolve around my days in undergrad at Laurentian University—like the time Biggie T ate the snake. My buddy Jacko had a pet snake, and one year it died over the Christmas break (of natural causes—Jacko didn’t starve it or anything). The first or second weekend back, Biggie T gets really drunk, and someone offers him $25 to eat Jacko’s snake. So Biggie T, being (a) drunk and (b) hungry, cuts the snake in half, puts it on a slice of pizza, and proceeds to eat the pepperoni, mushroom, and snake pizza slice. A week and half later he did the same thing again, but this time he was sober. I swear to God in heaven that every word in this is true. Before you say anything, I know this story has nothing in common with the rest of the column, but, come on, when does a story about a man eating a snake ever work its way into any normal subject of conversation? This seemed like as good a time as any.
Run, Obama, Run!
Al?n Kennedy-Shaffer's Presidential Predilections

by Alan Kennedy-Shaffer
Features Editor

The audacity of Barack Obama!

Some people think that they deserve to occupy the Oval Office just because they sit in the august halls of Congress, take potshots at an increasingly unpopular president, and have a vision for America that transcends racial, social, and partisan divisions. Just who do these people think they are?

With the publication of Sen. Barack Obama’s (D-IL) second book, The Audacity of Hope, the junior Senator from Illinois reclames his position as the official rising star of the Democratic Party—for good reason.

Unlike former presidential nominee Sen. John Kerry (D-MA), former presidential nominee John Edwards, or presumed front-runner Sen. Hillary Clinton (D-NY), Obama does not have any baggage from failed national campaigns, did not vote for the Iraq War, and has not been stigmatized by rightwing reactionaries.


Although the results of the 2006 midterm elections were not yet available as this column went to press, it is clear that the majority of Americans disagree with Vice President Dick Cheney’s assertions that we should “stay the course” in Iraq. Most Americans disagree with White House Press Secretary Tony Snow’s characterization of former Rep. Mark Foley (R-FL)’s sexual solicitations of underage House pages as “simply naughty e-mails.” More and more Americans disagree with the Republican leadership that corruption and dirty dealings are simply part of the game.

According to the latest polls in the Washington Post, disapproval with the direction this country is headed has reached the point that more Americans believe in ghosts (48%) than believe in George W. Bush (37%).

As Bush’s approval ratings plummet, the Republican pork machine destroys every last shred of integrity that Congress ever had, and Iraq wades deeper into civil war, the nation casts about for a political savior.

Enter Barack Obama, an untested, relatively inexperienced newcomer who reminds people of President John F. Kennedy. With a father from Kenya and a mother from Kansas, Obama knows what it is like to straddle the divide between privilege and poverty.

The tendency of the moneyed few to overlook the plight of the many has caused a rift between rich and poor that will not easily be mended. Obama reminds those in power not to forget “the world of immediate hunger, disappointment, fear, irrationality, and frequent hardship of the other 99 percent of the population.”

After graduating from Columbia University and Harvard Law School, Obama returned to Chicago to work as a community organizer and civil rights lawyer. He served seven years in the Illinois State Senate before becoming the third African-American since Reconstruction to be elected to the United States Senate.

Some Washington insiders say that Obama is too young and too inexperienced to be president. While there is some merit to the argument that familiarity with the political process may be a plus, dismissively saying that Obama must be “tested” in the Senate before moving down Pennsylvania Avenue overlooks the fact that ethics matter more than experience. Kennedy, for example, only served one full term in the Senate.

Obama became a household name after delivering the keynote address at the 2004 Democratic convention. Proving that he knows enough about politics to hold his own but has remained ideologically independent, Obama declared that “the pundits like to slice-and-dice our country into Red States and Blue States; Red States for Republicans, Blue States for Democrats. But I’ve got news for them, too. We worship an awesome God in the Blue States, and we don’t like federal agents poking around our libraries in the Red States.”

Obama posed the quintessential question directly: “Do we participate in a politics of cynicism or a politics of hope?” Looking always to the future but never ignoring the past, our nation has the opportunity to elect a real leader in 2008.

Real leaders gamble their political future opposing a war presented by the White House as crucial to national security. Real leaders speak truth to power, preferring the long view to the myopia of the moment. Real leaders have faith that the revolution must come not at the barrel of a gun but at the ballot box.

Putting principle above politics, Obama spoke out against the war in Iraq six months before the invasion in 2003. “I am not opposed to all wars,” he remarked. “I’m opposed to dumb wars.”

On May 18, 2005, I had the honor of meeting Obama in the Hart Senate Office Building in Washington, D.C. I was on the elevator and, as luck would have it, the elevator doors opened and there he was. Overwhelmed by the rush of emotion meeting one of my political heroes, I finally managed to say, “Senator Obama, your speech at the convention last year was one of the best speeches a Democrat has given in recent history.”

Meeting Obama made me prouder than ever to be a Democrat and filled me with hope for our great nation. The time is right for a new leader, a leader with a vision of peace and prosperity, to take the reigns and guide our nation to higher moral ground.

Do we have the courage to reinvent democracy by electing real leaders who are willing to put principle over partisanship? Do we have enough faith in the democratic process to gamble our future on a rising star with a vision of liberty and justice for all? Do we have the audacity of hope?

Run, Obama, run! You have my vote.

Letter to the Editor: Behave in the Bathroom

by Christopher Lindsey
Contributor

If I have a hang-up (and I have many), it is the general cleanliness and functionality of the bathrooms that I patronize on a regular basis. After witnessing one too many otherwise capable Assistant U.S. Attorneys ignoring a chronically hissing depository this summer, I conducted an informal clinic on amateur toilet repair. Visitors to my home will attest that only one rule must be followed while traversing therein: “Whether your name is Sally or Pete, all potty business is done on your seat.”

This brings me to you, the subjects of this letter: those members of the law school community who use and abuse the building’s facilities. Why is that on each of the three to four daily occasions I visit a law school bathroom, I witness another disgusting crime scene? Paper towels are strewn everywhere, especially the floor. Rolls of toilet paper are on the floor, rolled out, and soaked in unidentifiable fluid. Water absolutely floods the countertops. Oh, and my favorite, the paper towel plugged up a sink drain, holding a full gallon of murky water suspended above it.

The beauty of this latter example is that it is inescapable to conclude that someone has run the water after the paper towel found its way Continued on pg 19.
Reader Response: Kennedy-Shaffer's 2006 Election Preview

by Neal Hoffman
Contributor

This column is, in part, motivated by the continual partisan pieces published by our colleague, Mr. Alan Kennedy-Shaffer, in the past issues of The Advocate. Mr. Kennedy-Shaffer is a fiercely partisan Democrat and author of Denial and Deception: A Study of the Bush Administration's Rhetorical Case for Invading Iraq, as well as several anti-Republican articles published in past issues of The Advocate. His latest piece, Alan Kennedy-Shaffer’s 2006 Election Preview, was of a similar nature to his other articles, but was, in this issue, placed alongside an excellent article by Mr. Cliff Floyd.

This article, Truth in Advertising, is an example of the type of intelligent political discourse that we should expect and desire from the bright minds that make up our student body. Mr. Floyd held both Republicans and Democrats accountable, dealt clearly with the policy issues and political concerns, and actually argued a broader point than, “why I dislike members of this political party or this party in general.”

In comparison, Mr. Kennedy-Shaffer’s Election piece fails entirely to discuss policy. Rather than argue in favor of one candidate versus another for reasons of sound political goals, Mr. Kennedy-Shaffer advocates, to the best of a casual reader’s understanding, voting for Democrats simply because they are not Republicans. The article’s sole objective seems to be casting the Republican Party, and all their candidates, in a bad light because of the deplorable actions of a few individuals, or because of their party affiliation. As a Yale graduate and published author, I have no doubt that Mr. Kennedy-Shaffer could do a better job articulating his political views and the actual policy-based reasons for voting for members of one party over members of another.

In his article, Mr. Kennedy-Shaffer mentions Democrats or the Democratic Party only five times, with only two references to candidates; contrast this with the over thirty references to Republicans and the Republican Party, with fifteen references to individual Republicans. Not one of those references to Democrats mentions anything about policy; not one reference to Republicans is in regard to anything other than Republican failings or controversies. Mr. Kennedy-Shaffer refuses to even acknowledge the failings of certain members of his party, even as he rants against Republicans for similar ethical behavior. As Mr. Michael Toner humorously stated in response to a question by Mr. Kennedy-Shaffer during Mr. Toner’s talk at the law school, Mr. Kennedy-Shaffer is basically a negative advertisement against the Republican Party.

Seriously, continued from pg 17.

lives is gone they need something to do when they wake up at 6 a.m.), and vote against anything that serves both utility and aesthetics because they hate anything with the hope and possibility of life.

The Williamsburg that I have extensively studied for years but is still a mystery to me is the road construction and set up. The simple-minded would think that the road work would serve such purposes as easing traffic and giving tourists a direct route to the Ripley’s 4-D Experience. This is not even close to the case. With construction projects about as necessary as a dating column for a 600-person law school where—at most—30% of the population is datable, Williamsburg has created the single-greatest mess in the history of humanity.

Most recently the city decided to tear up Monticello Ave. from Ironbound to the Steeplechase apartments. I wouldn’t normally worry so much about this since I live so ridiculously/comfortably close to the school that I would have no reason to go over there except for the occasional stop at “School Crossing” to check out the newest season’s fashions. This construction, however, is just the tip of the Ice-Burg (get it?!!?). The main culprit is Richmond Road. Since

I started school here, Richmond Road has been an absolute mess. This scenic stretch of America—also known as “Route 60” (derived from the English “route” meaning a “course, way, or road for passage or travel,” and “60” from the Latin word “comprovincialis” meaning “born of the same province”)—starts at Confusion Corner and ends where I stop cars, page 199. On any warm December day hundreds/thousands/billions of people use this road as their direct route to and from work, the College, and Yankee Candle. The problem is, you have students (5%), residents (7%), “townies” (a smellly 6%), and overweight/underdressed tourists (140%) trying to squeeze through a road that is, at most, two lanes. Since the speed limits in Williamsburg are really high and the traffic follows a steady pattern, there is never the problem of it taking you forty-five minutes to travel down this road from Confusion Corner to, say, anywhere within five miles.

Recently, construction widened Richmond Road from about the end of the College up to Bypass Road. This construction was started about 2-3 years ago. My favorite part was not that it took them 2-3 years to build it; it was that they would go for about six months on end without doing a single thing, and then, in a span of two weeks, they would have built most of the new road, saved a species of bird from extinction, and developed a cure for certain types of cancer. Then, after those vast accomplishments, there would be another lull for a few months where there were thousands of cones, debris that looks like a post-apocalyptic moonscape, and traffic that could make the Springfield interchange look like a chump. My theory is that this is all a complex scheme created by insurgents (as probably discussed in a book by Alan Johnson Bartolomew Jackson Cheney (infamous Hiroshima Steinberg Koizumi Schaffer) in a plot to take out our country’s infrastructure by stopping tourist traffic in and around Big Apple Bagel. Either that or it’s the roller-bags’ fault.

Why have a piece titled as an election preview when that piece is nothing more than a partisan rant dealing with an upcoming election? Better to simply call the article, Alan Kennedy-Shaffer Thinks the Republican Party is Bad and Should Lose in November. Perhaps The Advocate might try a debate column on political issues between Mr. Kennedy-Shaffer and another writer where more than just partisan animosity is discussed. This would be a great opportunity to present more than one political viewpoint, especially so close to an election that is of great importance, and particularly at a time when true political discussion between the parties is becoming a rarity. This is not to suggest that The Advocate must achieve a balance of political views or that Mr. Kennedy-Shaffer cannot write as he has been writing; rather, it is a suggestion that a balance of opinion might make for a better paper or stronger political commentary.

Letter, continued from pg 18.

into the sink, witnessed the mess he has created, and simply left the carnage behind.

I am not known for mincing words, but I am fair. In keeping with the latter, I must exclude the ladies from my rant, due purely to a lack of empirical evidence. In keeping with the former, however, you guys are foul, and I’m tired of cleaning up after you (though I will continue to do so due to my obsessive inability to simply walk away from your nastiness).

What prevents a fully grown man from cleaning himself without dirtying everything around him? It’s a rhetorical question—quiet down when adults are talking.

I now make a general appeal to my colleagues, to the best of a casual political discussion between the parties is becoming a rarity. This is not to suggest that The Advocate must achieve a balance of political views or that Mr. Kennedy-Shaffer cannot write as he has been writing; rather, it is a suggestion that a balance of opinion might make for a better paper or stronger political commentary.

Features