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Library Renovation on Schedule for April Completion

by Tiffany Walden
Staff Writer

The Law Library renovation is a year behind schedule. Every student will have her own carrel. The renovated library should put William & Mary into the top 20 for law school rankings.

These are some of the rumors I have heard about the new library. And, in fact, none of them are true. Who instigates these myths, I have no idea, but I spoke with Jim Heller, who is the director of the Law Library and the man in charge of the library construction, and he dispelled the rumors and gave the facts about the new Wolf Law Library.

The library is not behind schedule; it is in fact on schedule (and under budget!) and will be completed by the first week of June. The construction, which began in the summer of 2005, will increase the library to 55,000 square feet, which is 60% larger than the original library.

For 1Ls the new library will seem three times as big as what we are used to and will have 100 more seats, 12 group study rooms, and 70 lounge-style chairs and sofas. So, although not every student will have her own carrel, there will be a lot more room to study for everyone. Lockers will also increase to almost 300, so practically every student who signs up for a locker will be assigned one.

Touring the library, I was amazed at the organization of everything: each journal has its own room, the shelves are ready to be put up, and decorative lighting and finishings are already being added. However, the construction process is not a perfect project. While talking to Heller about the library construction, one of the construction managers came in and told him that the columns on the second floor were built too large. For 10 minutes they talked about “leveling” and “paneling” and compared “30, 32, and 36 inch” walkways, while I sat quietly wondering how many times problems like this occur. “Every day,” Heller said when I asked him later. “It’s not always a big thing, but almost always something needs to be changed. It’s just the nature of the business.” Luckily, there is a good team involved in the library construction, and there have been no major setbacks that can’t be fixed with a little ingenuity.

In mid-April, we will all move back into the renovated part of the library and stay there throughout exams and Commencement. During that time, construction will take place in the library addition (new carpet, yay!), and after the law school graduation there will be a three-week period in which the two halves of the library will merge into one new facility.

For students who are interested in seeing the changes that have taken place in the library, Heller will be offering tours of the library, which are really worthwhile. He’ll send out an e-mail later in the month. It takes a lot to get excited about the possibility of studying, but the new facilities in the library just might do it.
Women and the Law Sponsors Prison Symposium

by Meghan Horn
Staff Writer

On Feb. 24, the Journal of Women and the Law presented its annual symposium. The topic for this year’s symposium was women and prisons. This topic is particularly relevant as women are currently the fastest growing segment of incarcerated individuals. Speakers included Sandra Guerra Thompson, Peter Carlson, Elizabeth Alexander, Jenni Gainsborough, and Kim White.

Sandra Guerra Thompson, a professor of law at the University of Houston, spoke on Latinas and their families in detention. This topic was not strictly about prisons but instead covered immigrant raids. Despite Congress’s urging to detain children only as a last resort and only in home-like situations, the Family Detention Center in Houston looks like a prison, where individuals are fingerprinted, wear uniforms, and are provided timed meals and little outdoor recreation. Healthcare is an especially problematic issue: Because most health care staff do not speak Spanish, detainees serve as translators, which makes some individuals reluctant to seek care.

Professor Thompson discussed the deplorable conditions in immigrant detention centers. Because the proceedings are civil, few rights exist, although the detention centers look like prisons. Despite Congress’s urging to detain children only as a last resort and only in home-like situations, the Family Detention Center in Houston looks like a prison, where individuals are fingerprinted, wear uniforms, and are provided timed meals and little outdoor recreation. Healthcare is an especially problematic issue: Because most health care staff do not speak Spanish, detainees serve as translators, which makes some individuals reluctant to seek care.

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U.S. Attorney Talks With Students about Careers in Federal Litigation

by Kaila Gregory
Staff Writer

According to Chuck Rosenberg, U.S. Attorney for the Eastern District of Virginia, nothing compares to the experience of standing in a courtroom and being able to say, “I represent the United States of America.”

Rosenberg talked with students at the “Lunch with Lawyers: Working as a Government Litigator” program on Tuesday, March 20, about his career in federal prosecution through the Department of Justice. In addition to his position as a U.S. Attorney, Rosenberg was recently named interim chief of staff for U.S. Attorney General Alberto R. Gonzales.

The first to admit that Assistant U.S. Attorneys’ salaries do not always equal those paid at large law firms, Rosenberg said that there are other advantages to his line of work. “The benefits of public service are not financial,” he said, “but, having worked at a law firm, I can tell you that I hated it. The work sucks.”

Rosenberg said he disliked working at a law firm because his client was no longer the United States, and he was not able to spend much time in court. “There were days when I actually liked [law firm work], but I would say that my worst day at the U.S. Attorney’s Office was still better than my best day at the firm.”

If the number of lawyers trying to pursue a career in federal prosecution is any indication, there are plenty of benefits to working for the Department of Justice that go beyond financial rewards. Rosenberg noted that his office received 380 applications for its last open position.

“We cap out at $140,000,” he said of the office’s pay scale. “But there are a lot of people who are willing to trade off a lot of money to do the kind of work we do.”

“Our attorneys have a lot more autonomy, and the value of that is high,” he said. “When you’re at trial, sometimes you are literally working a 16 to 18 hour day, but when you’re not at trial, the job is fun and relaxed.”

Rosenberg said that, unlike in the state criminal justice system, attorneys in the federal system do not go to trial as often, averaging no more than five or six cases a year.

When asked why he loves his job as a U.S. Attorney, Rosenberg said that although it was cliché, “I’ve only been asked to do justice. I have never been asked to do anything for political reasons, just to do what I think is right.”

Rosenberg told students that one way to determine whether they like their jobs is through the “Sunday night test.” While some lawyers may dread returning to the office Monday morning, Rosenberg is not one of them. “With my job, I loved Sunday nights, because it meant that I got to get up and go to work the next day,” he said. “If you can find that in your life, you’re pretty lucky.”

Breaking into a career with the U.S. Attorney’s Office can be difficult, but Rosenberg encouraged students to remain focused on their goals. “Please don’t focus on my job at the expense of others,” he advised. “If [the U.S. Attorney’s Office] is what you really want, you’ll get there if you take smart, measured, sensible steps to get there.”

One such step is gaining as much litigation experience as possible. “We want . . . folks who can try cases,” said Rosenberg, who encouraged students to consider externships and summer programs with one of the 93 U.S. Attorney’s Offices in the country.

For those law students who can get around the burden of paying back large loans after graduation, Rosenberg noted that some U.S. Attorney’s Offices hire students directly out of law school for one-year, unpaid jobs as Assistant U.S. Attorneys. “It’s an unbeatable experience if you’re creative and can afford to do it,” he said, noting that, unlike state departments, which prosecute an overwhelming number of cases, the U.S. Attorney’s Offices have more time to offer training programs and structured, formal mentorships to new prosecutors.

The Department of Justice also offers an honors program, hiring students directly out of law school or clerkships. Applications are typically due in September or October of a student’s 3L year.

Another good way to get into federal prosecution is to network with the judges and attorneys in the district where you want to establish your career.

Given the volume of applications his office receives, Rosenberg said that having high recommendations sets one’s application apart. “When a judge calls and recommends a clerk, we recognize that [that judge has] already gone through hundreds of resumes to pick the best and brightest . . . so we do rely on the recommendation.”

Rosenberg said that, like many of his fellow attorneys, he is happy to help others establish careers with the Department of Justice. “I can’t really help any of the people who helped me in my career, but I can help those coming after me,” he said.

While Rosenberg focused his discussion on criminal prosecution, he also noted that the Department of Justice has a large civil section as well. “We’re the world’s biggest law firm, so no matter what type of work you want to do, we have it,” he said.

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Election Law Society Holds Inaugural Symposium

by John Calabrese and Lisa Howard
Contributors

Unless you have been living under a rock for the past month or so, you may have seen one of the many e-mails, flyers, or notices on the white boards in every classroom promoting the Election Law Society’s First Annual Election Law Symposium. The Election Law Society, in its first year of existence here at William & Mary, was able to flawlessly organize and run this panel. The symposium, entitled “Checks and Balances: The Impact of Money on the 2008 Elections,” was held on Friday, March 2, 2007, and consisted of three expert panelists: Allison Hayward, Jason Torchinsky, and Neil Reiff. Each panelist spoke on a particular topic related to election law and the current implications of his or her topic. The other panelists commented immediately following each topic and took questions from the audience. As expected, all three of the panelists came together to help make the first symposium a huge success.

Allison Hayward, Assistant Professor of Law at George Mason University, spoke first about previous and upcoming Supreme Court cases, highlighting the constitutional side of election law. She discussed the change in the Court’s membership and how that may affect the Court’s decision in the upcoming challenge in Federal Election Committee v. Wisconsin Right to Life, an “as applied” challenge to the Bipartisan Campaign Reform Act. After the symposium, Hayward not only mentioned William & Mary and the Election Law Society on her election law blog, the Skeptic’s Eye, but she also encouraged other law schools to follow William & Mary and establish their own chapters. Rumor has it the Election Law Society will be going national as soon as Hayward can organize her students!

Next, Jason Torchinsky, a 2001 William & Mary Law School graduate and senior associate with Holzman Vogel, a preeminent election law firm, spoke about the current system of public financing. The panelists agreed that the system needs work, but none of them felt that the United States needs publicly funded elections.

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As 2007 Cutler Lecturer, Strauss asks Law School Whether We Have A Written Constitution

by Sarah Abshear
Staff Writer

On Thursday, March 1, the annual James Goold Cutler Lecture was given to a packed room in Room 119 of the law school. The series was established in 1927 by James Goold Cutler and is given every year by “an outstanding authority on the Constitution of the United States.” The original

Election Law Symposium, continued from page 3

Torchinsky also touched upon recent FEC rulings based upon financing for the 2008 presidential election race. Like the other members of the panel, Torchinsky was able to keep the discussion relevant and speak on issues that matter in today’s political environment. As the panel noted, election law, more so than most other areas of law, is constantly evolving and is by no means settled.

Prior to the panel, at the Lunch with Lawyers prior to the symposium, Torchinsky regaled students with stories of his time here at William & Mary. He included a story about the time he called Dean Jackson to try and reschedule his exams as he was about to board the Gulf Stream plane. He explained school policy, which meant not only judicial decisions, but actual practice throughout the American law. He said that it is only hypothesized that it would not, and noted that there actually is a controversy similar to that surrounding the Fourteenth Amendment.

Strauss claimed that these facts mean that the written constitution is not the most important part of American law. He said that it is only secondary to precedent, which is really much more important. When Strauss referred to precedent, he meant not only judicial decisions, but actual practice throughout the country. He posited that we are not relying on a written constitution for the real substance and structure of our system.

Strauss informed the audience that we cannot truly get the answers to most constitutional questions from either the language or the Framers’ intent. He noted that Thomas Jefferson made the argument that we cannot and should not be ruled by things adopted by people long past. Strauss said that many scholars argue that the alternative is to allow judges and legislatures to do whatever they want. For this reason, the idea of the language and the Framers’ intent governing remains strong. He suggested that following precedent solves the problem. Judicial review allows trial and error and wisdom gained over time to prevail. It allows for change.

Strauss cited Brown v. Board of Education as one famous example that precedent is what truly governs the judicial system. He claims that that case was the culmination of a slow change over time through judicial decisions and change in the nation. Brown creates a notorious problem for originalists in that it is well established that the people who drafted and passed the Fourteenth Amendment were fine with segregation. In cases like Brown, where the Court does not agree with the Framers’ intent, it glosses over the issue by saying something about not being able to turn the clock back. Strauss joked that this is because if they do, they have to decide differently. “So why doesn’t the Court just say that the Equal Protection Clause allows us to say segregation is unconstitutional, and segregation is evil, so we decided it is unconstitutional?” Strauss asked rhetorically. “Because the Court needs to be more principled than that, which is why many people try to be more originalist.” However, Strauss said it would be wrong to say that Brown was not a moral decision. Brown is easier to reconcile under the theory of precedent that Strauss advances.

First in the line of precedent culminating in Brown were Plessy v. Ferguson and its progeny. Plessy infamously held that the Equal Protection Clause could be satisfied as long as separate facilities for blacks and whites were equal. Between Plessy and Brown, the Supreme Court heard several cases where it had to determine

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Whether separate facilities were, in fact, equal. Time and time again it determined that they were not. For example, when the University of Texas created a separate law school for black students, with equal financial resources to the white school, the Supreme Court found it was not equal. This was based solely on the fact that it did not have the reputation and alumni network of the white University of Texas law school. When the University of Oklahoma tried to get around this by admitting a black student to its school and making him sit separately from the white students, the Supreme Court said that was not equal either. According to Strauss, by the time Brown was being heard, it already seemed that for practical purposes there were no real circumstances where the Supreme Court would find that separate was equal. The best explanation for Brown is that the Supreme Court learned from precedent that separate is never equal. It was not the Framers’ intent nor morality alone that led to this result. Precedent, as shown in Brown, is our Constitution in practice.

Other examples like Brown are found throughout American jurisprudence. Law students and professors might be most familiar with examples like the commerce clause cases, the cases beginning with Pennoyer v. Neff and culminating in International Shoe v. Washington, and even Roe v. Wade, which was the culmination of a series of privacy rights cases. Strauss stressed that there were no historical discoveries and no change in the text between the beginning and ending cases in these developments. Nor could the change be explained solely based on the views of individual Justices. For example, even if every Justice on the Court had wanted to say so, at the time of Brown, the Fourteenth Amendment could not have been interpreted as providing equal protection for gays and lesbians. There was no precedent for such a holding at that time. Today it is a

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Is Wind Power the Solution to the Energy Crisis?

by Kelly Pereira
News Editor

On a vacation on the island of Nantucket, Massachusetts, Professor Ron Rosenberg was intrigued by the Cape Wind Project controversy. Senator Ted Kennedy is the figurehead of the political opposition to offshore wind farms that would mar the aesthetics of the island’s vacation homes. Inspired by the controversy, Rosenberg has now written not one but two articles on the subject of the legal ramifications of wind farms.

On Tuesday, March 20, Rosenberg delivered the St. George Tucker lecture on the subject of “Renewable Energy in America’s Future—Is One Answer Blowing in the Wind? The Case for Wind Power.”

America is highly reliant on electricity; in fact, the U.S. uses 25% of the electricity produced in the world. Yet, most people do not know where their power comes from. In 1995, U.S. electricity came from coal (50%), natural gas and petroleum (21.7%), nuclear power (19.3%), and renewables (10%). In sum, close to 75% comes from fossil fuels.

Renewable power is power without a fuel source. In light of exponential increases in the use of electricity, power shortages in recent years (most notably in California in 2002), and the 2007 UN IPCC Report’s conclusion that evidence of global warming is unequivocal, renewable power poses a viable way to diversify the supply of electricity. Renewable power includes solar, hydroelectric, wind, bio, and wave energy. Rosenberg argues not that we should replace coal but rather that the projected increased demand of electric consumption (projected to be 25-50% in the next 25 years) should come from wind (and solar) power.

Wind power is not a new idea. Wind was used for milling grain and pumping water by ancient Egyptians and Persians. Even St. George Tucker would have been familiar with wind power. Colonial Williamsburg’s Robertson’s windmill was a side venture of a colonial lawyer. Kinetic energy was also used during the Industrial Revolution for water pumping for railroad steam engines and farm water pumping.

Use of wind power declined in the 1920s when rural electrification negated the kinetic power industry because of its affordability and reliability. The 1978 oil embargo was the impetus for California’s experiment with “energy exotica.” The 1981 Altamont Pass wind turbine project was intended to be a showcase, but it was “promoting something that didn’t exist”: It failed due to poor location and technology. In the following twenty years, Europe pioneered wind power technology. The current maximum generating capacity is 3.6 megawatts in Scotland. By 2010, offshore turbines are projected to generate 5 megawatts of energy.

Congress has passed tax credits for production of wind power, but federal subsidies have been intermittent, resulting in slow development of wind power technology in the U.S. Currently, wind power supplies only 1% of U.S. electricity, but the costs per kilowatt-hour of wind power have been decreasing, while the costs of fossil fuels have been increasing. Said Rosenberg, “Remember: Wind power plants have no fuel costs ever.”

Many major companies have invested in wind power. Rosenberg attributes this to the companies anticipating making carbon tax trades in the future. Between 1999 and 2006, year-end wind power capacity increased nationwide in the U.S. The state that currently produces the most wind power is Texas. The Department of Energy predicts maybe 6% of electricity to be kinetic-based by 2020. That is enough to power 21 million homes.

Proponents of wind power argue its merits as follows: (1) security of a domestic source of power; (2) fuel price certainty (no inflation); (3) declining kilowatt-hour costs; (4) economic benefits to rural communities (the middle U.S. suffering from population loss and depression could benefit from rental income); (5) environmental benefits (no use of water, waste, air pollution, or greenhouse gas emissions); and (6) encouraging state and federal policies (states have been more ahead of this issue than the federal government, but because federal jurisdiction begins at three miles, the federal government could benefit from the leasing of offshore locations in the Atlantic (on the Continental Shelf).

Opponents of wind power argue its demerits as follows: (1) inconsistent tax breaks; (2) operational problems (such as difficulty of transmission availability of generated power because of the mismatch of population and quality wind locations); (3) land use problems (siting issues include space, visibility, and aesthetics); and (4) environmental problems (such as noise—both transmission and turbine—and harm to birds, bats, flora, and fauna).

Rosenberg’s most recent article on the topic of wind power focuses on siting issues. How important will visual aesthetics be? This is not an area of federal preemption (each state will make its own process for consideration—comparative methodology). What are the factors and how will they be compared? Who decides?

Wind power implicates economic policies, regulatory policies, and land availability policies. Rosenberg argues that wind power will be a significant but gradual contributor to our nation’s power. Rosenberg’s conclusion is that public acceptance and experience with wind power are keys to its development. Site selection and project design of upcoming projects are crucial to the long term success of wind power.
I have always wanted to provide nonprofit legal assistance as a career. My passion for this area of law in many ways has been shaped by my background. I am from rural Virginia, and as a child I imagined that I would be a lawyer who would help everyone, even if they could not afford to pay for my services. Poverty, lack of education, unemployment, and racial inequality were and still are to a certain extent real problems in rural Virginia.

Whether real or imagined, we all know that injustice still happens in American jurisprudence. It is just a matter of what each of us is willing to do about it. The teachings of the Christian Savior, Jesus the Christ, even address the timeless issue of poverty, as he taught “the poor will always be with us.” When I arrived at Virginia Legal Aid Society this past summer I knew that I would have the opportunity to help a population of people who are often overlooked and ignored.

The clients I encountered at legal aid were diverse in their age, race, ethnicity, education, and careers, but the common denominator in each of their lives was their inability to afford a lawyer. I was shocked to learn the number of clients that legal aid actually turns away each year because of restrictions imposed by its funding sources. For example, Virginia Legal Aid Society gets part of its funding from the federal government; as a result they do not accept or read prison letters or handle immigration cases. Additionally, adoptions and complex divorces are also turned away for various reasons. They primarily handle denial of government benefit claims such as Medicare, food stamp assistance, and medical equipment. Other areas of practice include divorce, child support, insurance, social security claims, veteran benefits, and employment. There has also been an increased caseload of housing issues, including landlord-tenant conflicts, evictions, and denial of housing. There has also been an increase of cases that dealt with car title loans and payday lending.

During my summer there, the staff at legal aid consisted of three full time lawyers, two paralegals, and one jack of all trades secretary. The lawyers primarily did all of their own paper work. They were overworked and underpaid, yet they were committed to what they were doing. The physical environment was unsettling. My work space was out in the open. I had access to a phone to contact clients and government agencies and a very old, slow computer that did not work approximately three times a week. There was mold growing on the large wall behind my makeshift desk that covered the entire wall; it was due to water damage in the building. Of course, there was no funding to fix this problem as legal aid was already strapped for money to stay afloat. Building repairs were not in the budget, and so the mold continued to grow, releasing deadly spores into the air and aggravating my allergies.

In my discomfort, I thought about other law students in plush offices, receiving large weekly salaries, and breathing clean air. I became angry because I felt as if legal aid lawyers in particular should have a better working environment and the equipment needed to perform their jobs. Everyone knows that there is a problem in our country with regards to legal representation of the indigent. I am just furious that those who try to do something about this problem often become impoverished themselves.

The clients were very appreciative to have access to a lawyer, and there was a noticeable pride in their voices when they said “I need to speak to my lawyer.” There were some, however, who were impatient, angry, and rude. While frustration concerning ones circumstances is understandable, I had no idea that legal aid lawyers experienced the level of verbal abuse and subjection to bar complaints as they did. Many times legal aid clients have problems that need immediate attention, such as when they are being evicted that very day. This dynamic demonstrates the need for more legal aid services and increased funding for those that are currently in existence.

I was very pleased that this summer I helped a woman receive damages for her vehicle that was wrongfully repossessed because of her default on a car title loan. I helped a Korean baby girl receive Medicaid after being denied twice although she was born in the U.S. and thus is an American citizen even though her parents were not citizens. I helped an elderly woman with M.S. receive a motorized wheelchair after waiting over a year for the chair to arrive after it was already approved by Medicaid. I helped several persons to receive assistance paying for their medications through Medicare D and to receive TANF and food stamp assistance.

While the poor will always be with us, there are things that can be done to help with this problem. As future lawyers, we can do our part to ensure that all have access to legal services by doing pro bono work, donating money to organizations that provide free legal services, and working to change the system that in fact allows millions of Americans to be denied legal services each year even though they desperately need them not only because of their economic status, but also because of the type of cases that may be taken by nonprofit legal service organizations because of funding restrictions imposed on them by their donors.

Following intense interviews of all candidates, the Student Bar Association selected the Honor Council members for the coming academic year. The organization selected Ryan Brady (2L) to serve as the new Chief Justice. The representatives from the Class of 2008 will be David Bules, Christopher Lindsey, David Peters, Barbara Rosenblatt, and Kia Scott. The representatives from the Class of 2009 will be Jennifer Bacon, Jeffrey Palmore, David Sellia-Villa, Sarah Simmons, and William Smith.

**Public Service Fund Assassins Update**

As of Friday, March 23, nine participants remained alive. None of the remaining assassins has made more than two kills. Four have kept a very low profile and made no kills at all! The game ends April 13. If multiple assassins remain alive, the winner will be the survivor with the most kills. Casualties are asked to e-mail psfassassins@gmail.com to report in.

— compiled by William Y. Durbin from reports by Eric Anderson, Lex Boswell, and Aida Carini.
Spotlight on Faculty - Professor Nancy Combs

by Jennifer Stanley
News Editor

Professor Nancy Combs has been teaching International Human Rights, International Criminal Law and U.S. Criminal Law here at William & Mary for almost two years. She was drawn to Williamsburg because the small town atmosphere reminded her of her time in the Netherlands, and she found William & Mary Law faculty to be very well respected in the scholarly community and particularly strong in the international field, her area of specialization. Williamsburg has provided a historic setting to raise her son, who has taken a particular interest in the lives of American Presidents.

Prof. Combs’s background differs from most of the law students here at William & Mary as she did not go directly from high school to college to law school. In fact, her life’s many twists and turns include times when she owned and operated a chimney sweeping business, had a pet possum, and clerked at the Supreme Court of the United States, but not all at the same time.

Inspired to go to law school by her father, a sole practitioner, Professor Combs always knew she wanted to teach, but initially she couldn’t pin down what specialization she wanted. At first, she completely rejected the idea of teaching criminal law, thinking that it would be too depressing to spend her life thinking about the horrible things people do to one another. After serving as a law clerk to Judge Diarmuid O’Scannlai on the Ninth Circuit Court of Appeals and to Justice Anthony Kennedy on the United States Supreme Court, Professor Combs became the legal adviser at the Iran-United States Claims Tribunal in The Hague, the Netherlands. Here, she discovered her passion for international human rights law. As she says, “Instead of spending most of my time thinking about the small-scale miserable things that individuals do to other individuals, I now spend most of my time thinking about large-scale truly horrific things that government leaders do to whole populations.” Her passion for human rights and international criminal law has served her well in her scholarly articles and makes her an excellent resource for any student interested in pursuing a career in international law.

Although she went into the international law field without a background in the subject (as it was barely considered a subject during her law school years at Berkeley), she does not advise a similar route for the students of today. She advises, “Contacts are the most important asset for any student seeking employment in the international field and especially if the student wants to work overseas. American credentials don’t translate so readily internationally, so even though a student might have a sparkling record that would be recognized as such by an American employer, a non-American personnel officer at an international tribunal may not know to be impressed. (The same is happily true for students whose academic credentials are less sparkling.) But making a good impression on folks already working in the field will carry a great deal of weight. Thus, internships, if they can be afforded, are great ways of getting a feel for the field and getting to know people.”

In her lectures, you can always count on Professor Combs to be honest about the reality of working in the international law field. In fact, her current research project will examine the true nature of international trials. The project involves a large-scale review of the transcripts from international criminal tribunals to identify the fact-finding impediments these tribunals face when they seek to determine which person or organization is at fault. Her thesis will be that, given the quantity and severity of these fact-finding impediments, international tribunals can have little...Continued on page 9
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.

Friday, March 30
PSF Mr. Marshall-Wythe Pageant: Students compete for the crown in this tongue-in-cheek male beauty pageant. Proceeds benefit the Public Service Fund. The pageant takes place at Three Olives restaurant at 8:00 p.m.

Saturday, March 31
Admitted Students Weekend
Innocence Project Beer Pong Tournament: Students for the Innocence Project will host a fundraiser to help wrongfully convicted criminal defendants. Entrance is $15 per team; general admission tickets are $5. Live music and BBQ will also be provided.

Monday, April 2
Library Free-Throw Competition: Take your best shot—each costs $1. Teams may enter for $25. Pizza and soda will be given to all participants, and prizes will be awarded to the person and team making the most shots. Proceeds will benefit the children of Kori Carpenter, an employee of the Law Library who passed away in a tragic home fire in late February. The competition takes place in the lobby from 11:30 a.m. until 2:00 p.m.

Tuesday, April 3
An Evening with Author and Political Satirist, Chris Buckley: Free Q&A at Phi Beta Kappa Hall at 8:00 p.m.

Wednesday, April 4
American Constitution Society & Federalist Society Debate: The annual debate between the two organizations will address the topic “Separation of Powers during War Time.” The debate will take place in Room 119 at 6:00 p.m.

Tuesday, April 10
Benjamin Rush Luncheon and Presentation: Honoring contributions to health law and bioethics.

Saturday, April 14
Alumni Weekend: Events held April 13 and 14th.
BLSA’s Annual Oliver Hill Scholarship Banquet

Tuesday, April 17
Red Cross Blood Drive: 2:00-8:00 p.m. at Trinkle Hall.

Wednesday, April 18
National Bone Marrow Drive Day: Join the National Registry or update your registered information.

American College of Trial Lawyers U.S.-Canada Legal Exchange

Upcoming Events

Faculty Spotlight: Combs, continued from page 8

confidence in their ability to separate the guilty from the innocent on the basis of the evidence they receive. Due to this, the tribunals essentially function as show trials, and the true determination of guilt is actually a product of extra-judicial considerations. Professor Combs’s piece will explain that this court inefficiency may not necessarily be a bad thing. Although she will be going on pre-tenure leave during the next academic year, 1Ls may find it interesting to drop in on her current international human rights course to see if they would like to pursue further study in that area.

For more information on Professor Combs’s research or the projects of any law professor you find interesting here at William & Mary, surf over to the faculty page on the law school website. Or, if you want to learn something more personal about your professors, just wait for next issue’s Spotlight.
I'll never forget the day I came in to my office and found 3 large live trees waiting for me. Kori had dug them up from her mother's yard for me and hauled them in to work after hearing me talk about how I need some trees for my new yard. I have those beautiful trees to remind me of her generosity everyday.
~Doris Kappes

What a woman! Kori was one of the most caring, compassionate, and thoughtful persons I've ever known. Her generosity was boundless, and I often found little "surprises" on my desk. She always had a smile and kind word, and frequently asked if I needed help, even when I was doing the most mundane task. I do, and will, miss that smile.
~Marty Rush

Kori was one of the hardest working people I have known. She was a dedicated mother and grandmother, pleasant co-worker and someone with boundless energy. She was a person who said little, but accomplished a lot. She worked two jobs - one of which she got up at 3:00 a.m. in the morning to accomplish. When she told me that, I was shocked, but she was a single mother and did what needed to be done. She was a kind person. She was extremely creative - she always had an idea of how to make something from nothing. She was very involved in her church. She was the perfect example of give a busy person something to do and they will get it done. That was Kori. She will be missed.
~Cassi Fritzius

She was a bright and shining spirit.
~Jan Abbott

Kori Carpenter was such a strong, spiritual person. I know she endured so much in her life, but she never gave up. Kori always had a smile and encouragement for anyone in need. She gave me much inspiration following the illness and passing of my mother in 2003. Kori shared her Hawaiian heritage with me by passing on a wind chime, which represented the movement of an angel's wings. She said she gave me the chimes so I could hear my mother's angel wings each day. I will cherish this memory and live each day listening. My prayers and love to her girls and her parents.
~Della Harris

No matter what work Kori was doing at the Law School she was always smiling and always wearing the most wonderful and beautiful shoes. Kori knew how to dress up any outfit she owned by wearing shoes that I could only dream of. Sometimes I would joke with her that her choice of footwear made her appear as though she shouldn't be working around book stacks and library carts.
~Jessica Putnam Hughes

In Memory of Kori Carpenter

"It is foolish and wrong to mourn the [wo]men who died. Rather we should thank God that such [wo]men lived."
~George S. Patton, Jr.

No matter how busy Kori was, she would always take time to help or listen to someone. She very much enjoyed talking to and working with the Law School students.
Whenever extra hands were needed for a project, she was always there. Kori had such artistic talent. She always designed and put up the Breast Cancer Awareness Bulletin Board in October. Her displays were motivating and helped encourage donations to Breast Cancer Research.

Kori was the Chair of the College's HACE Hospitality Committee. She loved to plan and organize each monthly Hospitality event. And, she ran each one perfectly. Kori always wanted to make sure that at each meeting there was a variety and enough refreshments for everyone. She also took responsibility for all of the serving details. At each meeting, Kori so enjoyed greeting and talking with as many attendees as she possibly could.

Kori's motto was to forgive, not to hold grudges, to always be mindful of others feelings and needs. Kori was totally giving of herself. She would do whatever she could to help anybody.

First and foremost, she was a wonderful mother and grandmother. Her love for her children and grandchildren and family was boundless.

If only one person like Kori comes into our lives, we are very fortunate. I was so very blessed to have Kori come into my life and to be a friend of hers. Kori was so full of life and full of love. Kori you will certainly be missed.
~Betta Labanish
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While most of you spent your spring break in exotic sunny locales, I did not. I went home to Canada. I live in the town of Oakville, about 40 minutes outside of Toronto. It’s a fairly temperate climate, on par with, say, Boston. But that dash of cold air was not enough for me, so I decided to take a road trip to Sudbury—the heart of Northern Ontario. In addition to being the world’s largest nickel provider, Sudbury is also the home of Laurentian University and the Sudbury Wolves (a minor league pro hockey team). As this column has been the home of many LU stories over the years, I decided that I would document my return with what I hope is an insightful, informative photographic essay of my return to the north.

Huntington College, my home for three years. Notice the lack of snow. It has been a light winter.

We got into Sudbury in the late afternoon and had a couple of hours to kill before the game started. So, we headed over to the beautiful LU campus, where our first stop was my old residence of Huntington College. It looks a little drab and depressing in the picture, but the photo is misleading. In reality it’s incredibly drab and depressing. A little background on the building: The upper floors are residence rooms, the first floor has office space, and the room on the right is a bar/classroom. Shockingly, the latter did not have a positive effect on students’ GPAs.

Next we ventured over to main campus, where I think two pictures really sum up the school. The first is the LU courtyard; as the center of the school it’s kind of like our Sunken Gardens. Where W&M has grass, sun, and kids playing Frisbee, LU has a picnic table and a teepee. Here’s where my pictures come in handy: If I told you there was a teepee in the middle of my campus, you wouldn’t believe me. But there it is, photographic proof that my school is completely inexplicable. Freeze hits the nail on the head asking “Why a teepee—wouldn’t an igloo be more practical?”

If you thought the teepee was the dumbest thing on campus, you’d be wrong. That award goes to our second picture from LU—the outdoor patio for the campus pub. Note the lack of people on it. Note the large amount of snow. Somehow I think the two are related. Despite the glaring idiocy of building a patio on a campus covered in snow for ward to seeing the Wolf. Not the Wolves, the Wolf. The centerpiece and perhaps highlight of Sudbury Arena is the stuffed wolf hanging in the rafters. After the Wolves score a goal, the Wolf is swung out to center ice, the crowd cheers, and a series of wolf howls are played over the P.A. system. It might sound stupid, and it probably is, but it’s also the coolest goal celebration I’ve ever seen.

A side note on the Wolf: It’s been a Sudbury tradition for 30 plus years now, but this particular one is only four or five years old. While I was at LU, the old Wolf fell apart (its jaw fell off), and there was a massive campaign to find a replacement. While you may have lived your whole life without hearing “We want your stuffed wolf,” ads on the radio, I have not.

After the game, we caught up with some of my old friends and Freeze’s cousin and grabbed a couple beers at the local Irish pub. It was fun, but not quite as lively as the last time I was there when (a) Malton threw an empty pitcher at Moorsey’s sister’s head, and (b) Kavin drank Windex. That last sentence might sum up life in Sudbury and LU better than any-

Canada. See you in two weeks, hoser.

1 I’m being generous here. In reality, he was probably pretending to do something sexual, but I’ll give Freeze the benefit of the doubt. Also, despite the fact that I’ve known him for 22 years, this is the only picture I have of him.

2 By beautiful, I mean the ugliest campus in the entire nation of Canada.
The Advocate


d the Big Nickel, and yes, it is legal tender.

Canadian Bacon: The Prodigal Son Returns to LU, continued from page 12.

thing I’ve ever written. But absurd (and dangerous) partying aren’t all that life in Sudbury has to offer. It

Sweeter than Shug:

Dating according to David Bules

by David Bules

No dating column would be complete without mention of the single most important event in law school life, the PSF Date Auction. By the time you see this, it will have been over a month since the date auction, but that’s probably how long we all needed to recover. It was a great night. The beer was flowing like water, the money was flying like confetti, and the dates were hotter than hot. Here are some of the highlights.

The night belonged to the women. Whether it was Courtney Bennett’s repeat “40” performance or Maryann Nolan’s setting a new record for highest-priced date or Ginna Kelly’s shattering every record in the book by going for $1300, the women straight up rocked the house. Some of the more entertaining performances included Rob Thomas and Nathan Pollard’s “D*** in a box” skit; Trenton Brown, Mike Hinchcliffe, and Dave Neiman’s rendition of “Total Eclipse of the Heart” (old School-style); and Andrew English’s lassoing Sherwin Ignacio. One skit topped them all. I’m not just talking topped them all in money, I’m talking this was the hottest thing at Marshall-Wythe this year, and possibly ever.

The skit I’m referring to is the Kelly Hart, Ginna Kelly, and Alexis McLeod 80’s style fitness demonstration. I’ve never seen anything like it. It wasn’t like they were scantily clad or anything, but it was nothing short of amazing, and, if you missed it, shame on you. No, seriously, shame on you.

Ryan Browning and I had set some odds (we didn’t actually bet) on the over/under for certain groups. The over/under for that group was $1,000. Ryan helped this out by buying up Alexis for over $400. Andrew English then bought my lovely former roommate Kelly for another $300 plus. By the time Ginna came up as the third date, they had already eclipsed $700, so $1,000 was not out of the question. That’s when all hell broke loose.

Let me set up the scene. Ginna’s package was two tickets to a Washington Wizards game donated by Eddie Nickel (side note—Eddie is one of nicest guys I know) and a signed basketball. A couple of us started bidding early at the $100-$150 range. That didn’t last more than 30 seconds before two clear contenders took over for the next ten minutes. Yeah, that’s about how long it took. Brett Farmer, a 3L with a massive checkbook, and Latoya’s father were in it to win it. I’ll tell you, Stephen Cobb could have lost his voice in this bidding war alone because he never had to wait for the hands to go up.

I watched Brett the entire time, and he never took his hand down, not even once. He was determined and that’s what we like to see. Latoya’s father just kept getting closer to the stage to stand his ground. I seriously thought this was never going to end. I kept my eye on Brett’s hand and went to get another beer. I can tell you how long this went on by analogy. How long does it take me to drink three beers? Well that’s how long this bid fest went on.

Once it hit the $1,000 mark I realized our over/under was severely skewed. But there were no signs of slowing down. Cobb kept up his constant point to the left, point to the right, and scream numbers as loud as you can thing going on for as long as he could. The rest of us sat and witnessed this, in total shock. Not shocked because the girls were going for so much money, but shocked that law students have a thousand dollars sitting around somewhere.

Well the bidding finally ended at $1300. Ginna looked very flattered and Kelly Hart was losing a lung running around excitedly to the side of the stage. The rest of us then sat back down. Cobb noted that, during the bidding for these three, the entire crowd had closed in on the stage, unlike anything they had done all night when they were spread out throughout the whole room. And deservedly so. We were entranced. All of us. Girls and guys alike. You could have put those three up on that stage each with packages of “an oil change and two movie tickets,” and they still would have gone for the same amount of money.

It was simply the greatest thing I’ve seen since Sarah Simmons’s heroic #1 sign that I alluded to a couple columns back. The outfits, the choreography, and the beauty on that stage will be hard to top next year. Simply gorgeous.

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

Continued from page 5

Features

Continued on page 16

item: the Big Nickel.

The Big Nickel has been a Sudbury landmark for over fifty years. Sudbury is the largest source of nickel in the world—something like 50% of the world’s nickel comes from Sudbury. So, much like how Kazakhstan is proud of their potassium, Sudbury is proud of their nickel. If you look closely at the photo, you’ll notice that I’m holding up a regular nickel—this was all Freeze, he was concerned that otherwise you wouldn’t be able to tell just how big the Big Nickel really is.

So, that’s Sudbury—it’s cold, it has a bunch of snow, we play hockey, and it has a nickel the size of Rhode Island. Which, I’m sure is not at all how you pictured thing. For example, there was an amendment proposed to make child labor unconstitutional since the Court claimed state laws making it illegal were in violation of the freedom of contract. Although the amendment was rejected, the Court eventually changed its mind, basically effectuating the amendment. The Equal Rights Amendment followed a similar course.

Strauss ended his lecture by admitting that the text of the Constitution does matter in certain ways. For example, Brown may have never evolved if the Fourteenth Amendment had not been ratified in the first place, although it is
Advocate B-LA-W-Gs

by Mike Kourabas, Tara St. Angelo, and Asim Modi
Features Editor, Business Manager, and Features Editor

Mike Kourabas (2L): Well, apparently I'm not the only one who was force-fed beef, pushed down the stairs by my teacher, called an Iraqi, and accused of rooting for Saddam in the Gulf War. Selfishly, however, those stories have been taken (thanks, Asim).

As for the rest of my childhood, it began with me as a young Greek-American kleptomaniac. My parents being working class immigrants, I often had to turn to petty thievery just to stay warm. I wasn't stealing sweaters or blankets; rather, the thrill of theft kept my heart beating strong and my body temperature up.

Getting food wasn't a problem, though, as my father was a busboy for the local Niko's Diner. My mother, speaking limited English and almost exclusively a nearly obsolete Irish dialect, turned to the sweatshop. Among the seamstressess she earned respect, not for her stitching skills, but for her ability to sew with a blood alcohol level well above the legal limit. My mom's alcoholism taught me to hold my liquor at a young age, which helped me get through geometry and a 5:00 a.m. paper route.

Between theft and heavy drinking, I somehow became a porn addict at the age of ten. When most kids were trading Ken Griffey, Jr., rookie cards, I was breaking into Sal's Adult Video in search of the last installment in the “Debbie Does . . .” series. My constant breaking of the law was hardly noticed by my parents. My dad slept most nights in the kitchen at Niko's, and my mom usually passed out on the couch, bottle of bourbon in hand.

Word got around school, however, and as a result I was banned from friends' houses. I had no choice but to get serious with my girlfriend and become a stoic.

At 12, my girlfriend and I decided to drop out of middle school and get our own place in the Czech ghetto, about five minutes from my parents' house. Even in our impoverished little Chánov, rent was tough to pay on just a paper route salary and money from pawned stolen goods. My girlfriend had little choice but to start hooking. At first I didn't mind; the rent got paid and it kept her out of my hair, allowing me to drink in solitude.

By 13, however, she had started a coke habit and I had to draw the line. I resigned myself to ending the relationship. I chose the wrong time to break the news, however, and caught her in the middle of an angel dust bender. In the ensuing ruckus I took a knife to the shoulder, landing me in the hospital for a few days. The seclusion of the ER gave me some time to think, and when I got out I decided to live on the street.

I quickly sought refuge in another of my town's ethnic enclaves—Little Italy. Using my paper route skills I became a useful runner for the St. Angelo Family, who became the only real family I had ever known.

By 14 I was earning good money—enough to buy my way back into the middle school, whereupon I enrolled in an accelerated program, allowing me to graduate to the high school on time.

As a freshman I realized I needed to change my lifestyle. Fearing for my life, I gave my two weeks notice to the Family. My bosses were surprisingly understanding, however, and encouraged me to move back in with my parents and finish school. I returned home to find my parents had made similar life changes.

My father was now head chef at Niko's and had somehow lined up an interview at an up-and-coming hedge fund. My mother had checked into rehab—she had picked up a heroin habit somewhere along the way—and was doing well (they say if you can get through the first week alive, you're home free). I also found out that I had a younger sister—turns out she had been born years before I left, but I was too drunk to notice! This confluence of exciting events convinced me that I must re dedicate myself to my studies and someday go to college. I am proud to say that I succeeded.

Tara Ann St. Angelo (2L): I live in New Jersey and I am Italian. Nothing you hear is true. I do not have a single family member named Anthony, the words “How you doin’?” have never been uttered in my house, I do not have any ties to the mob, and the entire state is not just one big body dump. (OK, my friend Zach found a dead body in the pond near my house when we were in middle school, but that was ONE body!!!) The Sopranos has done a wonderful job of perpetuating some negative stereotypes. My college roommate didn't speak to me for the first two weeks of my freshman year because she was convinced I was a mob princess. Her mom told her to never trust an Italian from New Jersey who had two first names and two last names. (I have since attempted to eliminate the “Ann” from my name. If you can’t tell, my last name is SAINT ANGELO.) Meeting my mother only increased her fears of my murderous past because my mother is a walking stereotype. It’s true. She has bleach blonde hair, complete with early 90’s bangs feathered about 2 feet high. She has magenta acrylic nails that look like daggers, matching frosted lipstick and is often decked out in various pieces of gold jewelry obviously bought out of someone’s trunk. On top of it all, once she opens her mouth to speak, usually very loudly, you just know she is from Jersey. She often utters phrases such as: “Oh my gawd!” and “My palpitations!” My mother deserves her own Blawg, and the stories I have about her could probably fill an entire issue. She is the backdrop to my entire childhood and pretty much explains everything about me.

Enough about my mother. My childhood was pretty typical of any Italian kid in New Jersey. My parents ran a waste disposal company, my first sentence was “Livin’ on a Prayer,” I was convinced that Bruce Springsteen would someday be president, I summered “down the shore,” I never ate at a restaurant without the word “diner” in its name, I made fun of Jets fans until the last five years, and I developed a gambling problem in Atlantic City.

Life all started for me in Giants Stadium when my mom went into labor at a Bon Jovi concert. The music was just so good I had to come out of the womb. I was born amongst more mullets, plastic earrings, leather and stretch pants, slouch socks, and hair bleach than you have ever seen. 1983 was pretty much the peak of New Jersey culture, and the state has been stuck in a time warp ever since. Life was pretty calm in the formative years. My mom quit her job Continued on page 15
as the president of the Poison fan club to stay at home with the baby (me) and took up selling Avon and having Tupperware parties as hobbies. Dad drove to the “office” every day in his Camero, and Mom never quite knew what he did for a living. My sister was born three years later. (She also deserves her own Blawg but does not fit into the Jersey motif of this article because she looks like a UVA student. She’s the only girl I know who can wear 37 shirts at once and pop all the collars.)

My first memories are not happy ones. I remember being chased by a flock of geese and then by a herd of goats. When I was three I was feeding some ducks some bread at a local pond. It must have been some delicious bread because they trampled me. I just have memories of feathers and beaks. I am pretty sure my mom let them peck me for a while before she rescued me because she was too busy laughing. I can hear her thoughts: “Look at that stupid kid getting eaten by ducks!! Ha Ha! Oh wait, that’s MY stupid kid!” Thanks mom. I volunteered at a bird sanctuary in college just to get over my intense fear of geese. Parks and ponds were little slices of hell for me growing up because the mere sight of those vermin would paralyze me with fear.

Several years later, at the ripe age of five, my mom took me to a petting zoo. She handed me some food pellets and the next thing I know I am on the ground being force-fed beef by a teacher, pushed down the steps by a teacher’s aide, and door slammed. [insert dramatic run into bedroom lines like, “You’re not my dad!”] Life became filled with such incidents, the teacher’s aide would purposely keep me from the door, and the principal came to tell me. I was a sophomore in high school and the principal came to tell me. However, it was a pep rally, and he could not find me so he just yelled it into the crowd.

Not much has changed. My sister is still getting drunk. But it’s in college now. My mom still has big hair, but I no longer let her touch mine. My step-dad continues to wear flannel. I still have a deep love for Bon Jovi. On a final note: Looking back at the story I have told, I realize it started out intending to be a fictional, funny tale, but morphed into a true story that is actually funny. Sweet life

Asim Modi (21L): As for my childhood, I can’t say I grew up Gottis like Tara or experienced the bizarre amalgam of an Augusten Burroughs and James Frey youth like Kourabas. I suppose the only reason I was told to write this was alluded to earlier in Mike’s opening paragraph. I have, though, been force-fed beef by a teacher, pushed down the steps by a teacher’s aide, and been called a Saddam sympathizer during my formative years of 3-6 years old.

Going in chronological order, I’ll start with the involuntary beef eating. The setting is Brooklyn, 1987. Three-year old me was attending pre-school at Our Lady of Grace. The class decided to have Foods of the World week, where kids would bring in dishes representing their various ethnic heritages. To this day, I’m still kind of bitter that the naan and channa masala my Mom prepared went neglected by the class, but, eh, what can you do?

One day, this kid brings in what I remember to be slabs of beef. He claimed it represented his “American” background. As he most definitely was not a Native American, this argument was rather flawed (I’m sure I’d have felt differently had he brought bison or other foodstuffs found in “Oregon Trail”), but the teacher bought it nonetheless. Despite the fact that at this time (and until the age of around five) I was essentially a mute because of my minimal grasp of English, I tried to communicate that due to a complex mixture of religious, health, and ethical reasons, I couldn’t touch that suspect-looking gray substance pierced by a toothpick.

To paraphrase from a previously published Alan Kennedy-Shaffer letter, that argument was DENIED. The actual logistics of what happened next I don’t remember that clearly, but what did transpire was that a teacher’s assistant held me and the teacher fed me the beef. I do remember that the teacher’s justification was, “everybody had to eat your food.” Well, Ms. Padula, they didn’t. I promptly threw it up and spent the next few days at home sick. Because I’m a vegetarian, the incident didn’t really work to put me off meat, but if anything it only raised the threshold for when I would contemplate doing so. As of now, it’d take a turducken just to get me thinking.

Fast forward a year to kindergarten...
still possible it would have. More importantly, the text settles some things that have to be settled and do not really need interpretation. The date a President takes office, the terms a representative can serve, the number of senators given each state, and which branches of government are allocated which functions are some obvious examples. Even for more difficult provisions, the text serves to narrow the range of disagreement. However, it does not settle controversial issues. Strauss asserted that this is really the genius of the Constitution. The Framers knew that there were some things that needed to be settled but others that did not. They left some things open but decided enough for a system to get underway.

Strauss opened the floor to questions from the audience. The first question was about the precedent for Roe v. Wade. Strauss explained that much of the development was in the lower courts. The common law recognized two different relevant interests, bodily integrity and integrity in controlling one’s family. Those two interests merged with anti-discrimination and privacy developments to culminate in Roe. Strauss noted that Roe is one of the more difficult cases to justify based on precedent, but it can be done.

One audience member asked, “If the Supreme Court couldn’t have decided that gays and lesbians have equal rights in the 1950s, doesn’t that mean that popular attitudes matter?” Strauss responded that following precedent does not refer only to previous judicial decisions; it includes the attitude of people in the country. Everyone has their own ideas about justice, but one Justice cannot simply follow his or her own opinion. If the opinion is popular in the country, it matters. Nonjudicial sources are important in decision making.

Another audience member questioned how the theory of precedent was different from saying that things change and the past does not matter. Strauss explained that there comes a point where a court will look back on a series of decisions and say that even though they have been operating on the principle that X is what controls the decisions, it appears in retrospect that all along it was really Y. So now the court will just say Y instead of saying X.

One person expressed concern that no one would be able to know the law or constrain their conduct. Strauss agreed that there is some risk of surprise, but because the precedent evolves over time, people will generally see the change coming and not be totally surprised. In areas where the law has been evolving, it will already be clear that the law is uncertain. This risk will be present in any system that allows change, and a system that does not allow change is much worse.

Professor Van Alstyne, Lee Professor of Law at William & Mary and constitutional law expert, took the questioning time to raise two problems with Strauss’s theories and deliver a mini-lecture of his own. First, he asked if Strauss’s view supports the constitutional oath Article III judges take. He hypothesized that this was really like saying that any desired change could be brought about by doing it in increments, so judges could have a strategy to slowly change the law. He asked if that was a suitable thing for Article III judges to do, clearly implying that it was not.

Second, he noted that the unexpected cost of a precedent-based system that devalues the text of the Constitution is that amendments are less likely to be passed. He pointed to his own work attempting to get the Equal Rights Amendment ratified, which he said would be better than any incremental move by the Supreme Court towards equal rights for women because of its clear and unequivocal language. The amendment failed in legislatures; it was three states short. Van Alstyne claimed that what defeated the amendment at the margins was that the legislators felt the Supreme Court could not be trusted with interpreting the amendment. In effect, the Supreme Court really defeated the Equal Rights Amendment. He said this is evidence of the negative synergy that now exists between the Supreme Court and Article V-authorized changes to the Constitution. It is now virtually impossible for amendments to be passed because of the Supreme Court; the amendment process is a casualty of the precedent theory Strauss advocates. This deprives the country of the ability to come together and change the Constitution affirmatively when a feeling of national consensus could be beneficial.

Strauss agreed that there is definitely a diminished power of the amendment process. He joked to Van Alstyne, “We definitely need to hash this out at the bike racks,” at which point the audience erupted in laughter. Strauss acknowledged that the process makes amendments less likely, and therefore there is less feeling of national consensus.

He pointed out that it is not just the judicial branch that has made the amendment process less likely; the executive and legislative branches have done so as well. For example, President Franklin Roosevelt and Congress basically amended the Constitution without an amendment when they passed a great deal of the New Deal legislation. Strauss also pointed out that there is a difference between a descriptive theory, which his is, and a normative theory, which would deal with whether it was right or wrong. Dean Revelle stepped in at this time to end the lecture, which was followed by a reception in the lobby of the law school.

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**Blawgs, continued from page 15**

In an off-the-cuff moment at the P.S. 216 garden at P.S. 216 (now named “Arturo Toscanini School”), still in Brooklyn. One day, I was minding my own business, playing with my Hot Wheels in the corner of the classroom (my life as a quasi-mime was pretty heady stuff for second grade).

Clearly, it was above Nicole Pugh’s head. Nicole, a surly child who had an unhealthy obsession with food, for some reason lashed out at me in class and declared I was an Iraqi (as if that were a pejorative term) who rooted for Saddam in the war. I would point to her cultural ignorance, but since then I lost has basically declared Indians and Iraqis interchangeable. The more interesting thing is the whole idea that me and my family were watching the war on television like it was a game. Did she think we huddled around the TV, decked out in the official colors and singing fight songs? I guess she knew that Herbstreit and Corso had picked the U.S. and as a result of disdain for that pair, I had to support the other side.

Other than that, nothing too interesting about my childhood. While Kouraba’s story explains his F. Scott Scotch persona, I can’t say that these things really have had any lasting impact. They are pretty good stories to tell at parties, though, and I know they definitely sounded good on my college applications. If anything, I’d love if in response to this tale, Bill Raftery complimented my determination to be somewhat well-adjusted with an “Onions!”
No one has a need for a box with a hole cut in it -- imagine that! No matter -- we found the actual caption that goes with last issue’s photo in the bottom desk drawer in the Advocate office: This is an illustration from the Restatement (Third) of M&M Law: Under section 162, which replaced section 62 from the Restatement (Second), the M need not touch and concern the other M in order for the milk chocolatey goodness to run with the delicious candy shell. No one in the office has any freakin’ clue what this week’s photo (see second image below) means, however, which means we’re all ears for your explanations. Remember, all you need to do is send two sentences or less describing the legal principle or lesson depicted to jelasz@wm.edu. Winner scores a chocolate-covered macadamia nut brownie from the Big Island Candy Company (if there’s any time to enter, now is it).

Since the election of our new leadership in February, the SBA has been busy working on a variety of projects. We want to share a few details on three important projects we are currently working on: keeping Java City’s hours from being shortened, Coins for Kori, and an upcoming family-friendly event benefiting a great charity, Global Playground.

**Java City Hours**
In early March, the SBA discovered that Java City’s hours were in danger of being shortened. Aramark, the owners of Java City and contracted dining services provider to the College of William & Mary, wanted to close Java City at 2:00 p.m. everyday directly after we returned from Spring Break. In response to this, the SBA started a petition to show Aramark that law students needed the longer hours. SBA President Sarah Fulton is also meeting with the administration and trying to help negotiate a compromise with Aramark.

The petition will be out in front of Java City through the end of the week and it’s not too late to sign it! Please e-mail Sarah at sarah.fulton@verizon.net if you have any questions.

**Coins for Kori**
After the sudden passing in late February of Kori Carpenter, a library staff member, the SBA began a law school-wide penny war in order to raise money for Kori’s two daughters who survived the fire. There are jars for 1Ls, 2Ls, 3Ls, and Faculty/Administration in both the law library entrance and in front of Java City. Gain points for your class by putting pennies in your class’s jar. Take away points from other classes by putting silver coins or dollar bills in their jars.

SBA rising 2L representative Kerry Loughman-Adams is helping organize Coins for Kori and...
Please take a moment to empty the spare change out of your pockets or coin purses at the end of each week! If you have questions, e-mail Kerry at keloug@wm.edu.

Family Field Day to Benefit Global Playground

Many students have expressed interest in the SBA organizing more family-friendly social events. In response to this, the SBA will be holding a family field day on a to-be-determined Saturday in April at a local Williamsburg park featuring food, games, and prizes.

In addition, we will be raising money for a great family-oriented charity called Global Playground. Global Playground, which has several W&M alumni and several W&M Law alumni on its board, is committed to raising awareness and sharing resources with developing areas to create educational opportunities through raising money to build schools. They are currently working with Building Tomorrow, a charity also created by W&M alumni, to build a school in Uganda.

Please e-mail Chris Crawford at cacraw@wm.edu with questions regarding the family field day. For more information on Global Playground and Building Tomorrow, please visit their websites at theglobalplayground.org and www.buildingtomorrow.org.

‘Very Articulate... for a Black Man.’

by Jennifer Stanley
News Editor

Last month, Delaware Senator Joe Biden declared his intention to run for the Democratic presidential nomination. As a prudent man does, he evaluated the competition and assessed the strengths and weaknesses of his opponents. As Sen. Biden seems to have a compelling need to think out loud and to the press, his assessment was reported on and picked apart with close scrutiny paid to his remark about Sen. Barack Obama. In comments first reported in the New York Observer, Sen. Biden said Sen. Obama is “the first mainstream African-American who is articulate and bright and clean and a nice-looking guy. I mean, that’s a storybook, man.” The main crux of the public scrutiny was Sen. Biden’s use of the words “articulate” and “clean.” Later, Sen. Biden rephrased his statement and apologized for any offense he might have caused. Sen. Biden said, “Barack Obama is probably the most exciting candidate that the Democratic or Republican Party has produced at least since I’ve been around . . . And he’s fresh. He’s new. He’s smart. He’s insightful. And I really regret that some have taken totally out of context my use of the word ‘clean.’”

At first, Sen. Obama had a very nonchalant reaction to the comments, saying that he thought Biden “didn’t intend to offend” anyone. “He called me,” Obama said. “I told him it wasn’t necessary. We have got more important things to worry about . . . This is low on the list.” Even Rev. Jesse Jackson, who was a presidential candidate in 1988, said he did not think Biden was being racist. “Knowing Joe Biden the way I do, I’m sure he didn’t mean it as off-color, but it is certainly highly suggestive,” Jackson said in an interview with CNN.

Later, after receiving calls from several prominent members of the African-American political community, Sen. Obama released a harsher reaction to the press. In a written statement, Sen. Obama said “I didn’t take Sen. Biden’s comments personally, but obviously they were historically inaccurate. African-American presidential candidates like Jesse Jackson, Shirley Chisholm, Carol Moseley Braun, and Al Sharpton gave a voice to many important issues through their campaigns, and no one would call them inarticulate.” There has been speculation that this harsher response was an attempt by Sen. Obama to connect with African-American voters who may have seen the initial reaction as downplaying the possible racist undertones.

So, is Sen. Biden a victim of misinterpretation, or is he a racist from a wedge state? No one can know his internal motivations, and, regardless of his past verbal snafus, his remark about Sen. Obama does not necessarily reveal any personal bias. However, there is something to be learned from the media’s reaction to the comment.

Taken literally, Sen. Biden’s words were accurate and complimentary. While there have been past African-American candidates who were educated and “clean cut,” none have been so embraced by the mainstream media or had such appeal across the color lines of America. But is there a hidden meaning behind these words? A hidden meaning that may be irrelevant to Sen. Biden’s personal perceptions of the African-American population, but reflective of the collective belief that the African-American population as a whole are “lower” than other groups? That they, as a group, have not progressed or are not capable of achieving even “standard” success in life, society, or, in this case, politics, and that any individual who “rises above” is not the norm for African-Americans, but rather an exception?

The initial statement, taken in this context, is akin to the more dated phrase, “You’re a credit to your race.” An example to illustrate is the back-handed compliment of, “You’re pretty, for a black girl.” In this lies the assumption that black women, as a group, are not attractive, but that “you” are pretty as compared to them. You’ll never be as pretty as a white girl, but, as a black girl, you’ll do. While this explanation may seem overreaching, it explains why many African-Americans may feel insulted by Sen. Biden’s comment, while many Caucasian-Americans may not understand its full impact.

In an idealized colorblind world, perhaps we wouldn’t be having this conversation and Biden’s comment wouldn’t have garnered so much news time. Unfortunately this is not the case. As much of a waste of time I find “sensitivity seminars” to be (and believe me, I’ve sat through my share of them), perhaps they do serve their purpose of avoiding uncomfortable situations like the one that Sen. Biden now faces. However, if we look upon a timeline, with the optimistic assumption that American race relations will continue to improve, we may have to admit that the American society we live in today is in a major transition phase, and comments that even ten years ago would have erupted into fistcuffs now lack the racist undertones that they once had. While this mindset may not work for Sen. Biden and his presidential campaign, it may give American society, as a whole, freedom from old wounds.
Tackling Global Warming

Alan Kennedy Shaffer’s Take on Climate Change

by Alan Kennedy-Shaffer
Features Editor

After former Vice President Al Gore finished his lecture on global warming at Yale University in the spring of 2004, he stepped down from the podium, waiting for the hordes of students to rush up to him. The hordes never came. Thirty seconds later, I was alone with the man who was once the next president of the United States.

As I approached Gore, shook his hand, and asked him what steps we could take to reduce global warming, I wondered why so few people cared about one of the most significant issues facing our planet. Did they not grasp the implications of what Gore had said about melting glaciers, shifting weather patterns, and rising carbon dioxide levels? Did they not understand the potential devastation of climate changes that could lead to hurricanes, flooding, or another ice age? Did they not understand the consequences of our actions?

Three years later, I cheered as Gore stepped to the podium to accept an Oscar for his documentary, “An Inconvenient Truth.” I could not help but admire the man for persisting in his quest to educate the world about global warming, giving the same slide show that I had seen in New Haven again and again.

While Gore’s stiff manner prevented him from coming across as genuine during the 2000 presidential campaign, that same stiffness lent him credibility as he lectured Americans on the problem of climate change in the years since leaving the Naval Observatory. He has cleaned up his act and is working diligently to clean up our planet, but he cannot do it alone.

If science has taught us anything, it is that each person’s activities have little effect on the environment, but as a civilization our actions impact the environment enormously. Burning fossil fuels releases carbon dioxide and other greenhouse gases into the atmosphere, causing a buildup of greenhouse gases that traps the sun’s rays, which in turn raises temperature levels. By destroying the protective ozone layer around the earth, the earth both receives and absorbs more of the sun’s heat.

Most scientists agree that global warming is real, that it has the potential to cause serious climate changes, and that human activities have accelerated the rate at which it is occurring. According to climatecrisis.net, “We’re already seeing changes. Glaciers are melting, plants and animals are being forced from their habitat, and the number of severe storms and droughts is increasing.”

Scientists have correlated the rise in global temperatures to an increase in powerful hurricanes, the spread of insect-borne diseases such as malaria to higher altitudes, the break-up and melting of glaciers and ice shelves, and animal migration. If we do not act to reduce the rate of global warming, the world could face devastating flooding, droughts, wildfires, heat waves, and species extinction.

Scientists have found incredibly strong correlations between carbon dioxide concentration and atmospheric temperature levels, suggesting that burning fossil fuels has contributed greatly to the climate changes taking place all around us. Alarming, the carbon dioxide and temperature levels today are swiftly approaching the highest levels on record, with today’s temperatures and carbon dioxide levels approximating those found on earth 100,000 years ago. It current trends continue, global temperature levels may soon exceed the highest temperature levels in history, leaving us to speculate about the future of civilization.

What makes global warming so difficult to tackle is the tendency to consider only the immediate costs of changing our habits while ignoring the long-term costs of adhering to the status quo. While developing more fuel-efficient vehicles, such as gas-electric hybrid cars, may impose higher research and development costs on automakers in the short term, the long-term reduction in greenhouse gas emissions will likely save consumers billions in lower air conditioning bills, coastal flooding measures, and exorbitant gas prices.

Our nation’s addiction to gasoline, the price of which exceeds three dollars a gallon in some places and continues to rise, is one of the major culprits in carbon dioxide emissions, along with coal-fired power plants and oil heating. While most developed countries, including China, have imposed stringent fuel efficiency requirements on automobile manufacturers, the United States lags behind in tackling the human causes of global warming.

The Environmental Protection Agency estimates that gas mileage for American vehicles has stagnated over the last twenty years, with cars averaging only 24.6 miles per gallon and light trucks averaging only 18.4 miles per gallon. Considering the explosion in the number of SUV’s on the road, which fall into the light truck category, our nation has actually lost ground in the last two decades.

The good news is that by making a few small changes to our way of life, the United States can take the lead in reducing the rate of increase in carbon dioxide levels, thus reducing the rate of increase in atmospheric temperature levels. By mandating higher fuel efficiency standards for all American cars, light trucks, and trucks, we can simultaneously reduce our greenhouse gas emissions and our dependence on foreign oil.

Reducing our dependence on foreign oil would benefit our nation in a variety of ways, most notably by lessening our reliance on autocratic regimes like Saudi Arabia and wiping out one of the motivations behind the Iraq War. President George W. Bush should either sign the Kyoto Treaty or negotiate a stronger treaty that will commit the nations of the world to reducing non-renewable energy dependency and greenhouse gas emissions.

It may already be too late to prevent all of the effects of global warming, as evidenced by the devastation of Hurricane Katrina, but it is not too late to try. We owe it to ourselves, to our descendants, and to our planet to do what we can to undo the damage that human activities have already caused.

Al Gore has been talking about the threat of global warming for an awfully long time—what will it take to get us to listen?

Alan Kennedy-Shaffer is the author of Denial and Deception: A Study of the Bush Administration’s Rhetorical Case for Invading Iraq.
Class of 2007

Best Smile:
Eddie Nickel, Nora Garcia

Best Personality:
Casey Butterly, Nora Garcia, Alexis McLeod

Best Eyes:
Sean Clark, Kelly Hart, Alexis McLeod

Best Hair:
Casey Butterly, Melanie Augustin, Rebecca Price

Best Legs:
Dennis Chong, Lisa Raines

Best Body:
Ryan Wertman, Erin Ashcroft

Best Dressed:
Leondras Webster, Linda Oramasionwu

Best Dress:
Gabe Kennon, Courtney Bennett

Best Chef:
Mike Pegman, Liz McElroy

Best Danced:
Gabe Kennon, Amy Lisentfeld, Jessie Johnson

Best Sense of Humor:
Harry Clayton & Alison Sawyer

Best Laugh:
Kelly Hart, Dennis Chong

Best Couple:
Trey Freeman, Alison Wickizer

BIGGEST FLIRT:
Les Boswell, Melissa Matt

Biggest Partier:
Richard Neely, Natalie Fassie

Most School Spirit:
Maryann Nolan, Stephen Cobb

Most Talented/Musical:
Ryan Wertman, Amy Lisentfeld

Best Schmooze:
Paul LaFata, Zach Terwilliger, Jamie Mickelson

Best Roommates:
Stephen Cobb, Liz McElroy

Worst Driver:
[Too many women to name] Kevin Kennedy, Natalie Fassie

Best Dance Moves:
Alex Blumenthal (this actually happened, too)

Best to Get Stuck In An Elevator With?
Matt Dobbie, Shawan Gillians

Who is Most Likely To.....?

Who is most likely to stay in public service forever?
Maryann Nolan, Bob Fay

Who is most likely to stay in private practice forever?
Liz McElroy, John Warren

Who is most likely to never take a law-related career path?
Carolyn Fiddler, Mike Pierce

Who is most likely to become a professor?
Jamie Mickelson, Tal Kadeem

Who is most likely to go into politics?
Stephen Cobb, Carolyn Fiddler

Who is most likely to live in Williamsburg forever?
Jordan Gillman, John Stapleford

Who is most likely to become "The Hammer"?
Liz McElroy, Ari Johnson

Who is most likely to become a judge?
Polly Sandness, Bryan Shay

Who is most likely to turn a professor's hair gray?
Leah Crosby, Josh Watters

Who is most likely to become a professor?
Polly Sananess, Tal Kadeem

Who is most likely to be found in the lobby?
Stephens Cobb, Melissa Mott

Who is most likely to be a designated driver?
Maryann Nolan, Matt Dobbie

Who is most likely to become dean of the law school?
Van Smith

Who is most likely to have a car spontaneously combust into giant flames?
Alex Blumenthal (this actually happened, too)