Welcome New W&M Students!

Dear Students,

It is great to have you gracing our halls once again. This place without students isn’t itself. You provide life and purpose for our common endeavor.

A warm welcome back to those of you who are prior denizens of the country’s oldest law school! An equally warm welcome to those of you who are here for the first time, whether as newly minted 1Ls, transfers from afar joining the Class of 2009, LLMs in the Class of 2008, or visitors from other law schools spending the third year in our midst. It is marvelous to have each of you here.

After eight years of construction and renovation, the law school is about to lay down its hard hat for a while. The new Wolf Law Library came online in July. Renovations of our Front Hall will be complete once the furniture arrives, allegedly this month. It’s time to enjoy the fruits of our labors, unmolested by the rough love of construction.

The faculty is as glittering as always. Vivian Hamilton has joined us full time. Dave Frisch and Jeffrey Manns are visiting this term. The prime mission of our professors remains to teach splendidly in class and out, as has been true since George Wythe taught the first law students at William & Mary in January 1780.

We’re off to a rousing start. Let’s make 2007-08 one of our most satisfying years ever.

Cordially,
Taylor Reveley

Congratulations to Shana Hofstetter

by Jennifer Stanley
News Editor

The Marshall-Wythe School of Law has many reasons to be proud of its students, and Ms. Shana Hofstetter (3L) recently added a new honor in becoming the recipient of the American Counsel Association’s 2007 George Kerr Scholarship Award.

Every year the American Counsel Association accepts nominations from the law schools of a different federal circuit. From this pool, the council chooses a recipient based on academic achievement, a writing sample, and demonstrated interest in international law. During the spring semester of 2007, the international law professors of Marshall-Wythe decided to nominate Shana for this prestigious honor. She was officially awarded a $5,000 scholarship check on Thursday, Aug. 30, by Ms. Pamela A. Bresnahan of Vorys, Sater, Seymour and Pease LLP.

Prior to law school, Shana worked for the Claims Conference securing Holocaust survivor repa-

Continued on pg 4.
Storied Cross Finds Permanent Home in Wren Chapel

by Abby Murchison
Assistant News Editor

It is early September, and the College is a-bustle with new students, new classes, and new activities. Yet traces of a debate which last year dominated the campus—and thrust William & Mary into the national news—linger on. Venture over to main campus, into the chapel space adjoining the historic Wren Building, and you will find enclosed within a glass case the tangible subject of that debate: an eighteen-inch brass cross.

In October 2006, William & Mary President Gene Nichol ordered that the cross be removed from public view, an effort to secularize a space used often for non-religious purposes. After more than five months of debate regarding religion at public universities, the College announced in April a compromise that would return the cross to permanent, albeit more discreet, public display.

Now housed in its glass case near the chapel’s east entry, the cross is accompanied by a plaque commemorating the school’s Anglican roots as well as its historic connection to Bruton Parish Church, which donated the cross in the 1930s. The case sits atop a walnut stand, designed for the chapel in 1929 during a restoration of the Wren Building. The cross will remain available for altar use by request.

The compromise was effected by the Committee on Religion at a Public University, convened at the request of President Nichol and co-chaired by law professor Alan J. Meese (’86).

In a press release issued by William & Mary in April, Professor Meese said that the location of the case and the plaque “will remind us of the traditional importance of the cross to the College.”

The road between removal and re-exhibition of the Wren Cross has been long and bumpy, yet peopled by passionate advocates for a range of vested interests. In December 2006, President Nichol allowed the cross to be returned to the altar all day on Sundays, yet this change failed to quell the firestorm. Students, faculty, alumni, community members, and lawmakers all weighed in.

Some defended Nichol, agreeing that the cross sent a message that the chapel belonged more fully to some than others. Some demanded strict separation between church and state, holding that the chapel space ought not to appear to favor Christianity. Others believed that removing the cross inappropriately secularized a traditionally sacred place. Still others believed that, as a symbol of the College’s rich history, the cross should be on permanent exhibition.

Alumni financial gifts waned. One donor, James McGlothlin, revoked a $12 million pledge. Even televangelist Pat Robertson offered his advocacy for the religious right, blasting President Nichol during a broadcast of the “700 Club”: “A cross is offensive? Tough luck. Why do we want to eliminate the Christian heritage? It’s the source of our strength.”

For law students, the cross controversy has been a source of academic discussion rather than emotional outcry. Jessica Myers (3L), co-chair for the student division of the Institute for Bill of Rights Law, commented that the cross controversy was “often a point of conversation for law students, both in and out of class. The debate hinges on the sorts of principles we learn here and will continue to analyze as practicing lawyers.”

Tom Fitzpatrick (1L), who...
Court Preview to Examine President’s War Powers

by Rob Poggenklass
Assistant News Editor

Students and faculty at Marshall-Wythe will have a firsthand opportunity to see what is on the U.S. Supreme Court’s docket for the 2007-08 term during the twentieth annual Supreme Court Preview, to be held Friday and Saturday, Sept. 14-15.

The Preview, sponsored by the Institute of Bill of Rights Law, is free to all members of the law school. Only the Friday afternoon panel—"Prosecutorial Abuse and the Duke Lacrosse Case"—requires tickets. To get a ticket for the Duke panel, e-mail Melody Nichols at ibrl@wm.edu.

This year’s Moot Court exhibition is titled “Executive Power and the War on Terror.” Held in the McGlothlin Court Room at 7:10 p.m. Friday, the Moot Court will feature advocates Pamela Karlan and Judge Michael M. McConnell.

Panel to Discuss Duke Lacrosse Case

by Amanda Christensen
Contributor

The prosecution of three Duke University lacrosse players for rape, their later exoneration, and the fall of the Durham prosecutor has been in the news for more than a year. This Friday, a discussion on the case will come to William & Mary School of Law.

The Institute of Bill of Rights Law will host the panel discussion Sept. 14. Among those on the panel will be Stuart Taylor, author of Until Proven Innocent: Political Correctness And The Shameful Injustices of the Duke Lacrosse Rape Case, and Duke Law Professor Jim Coleman, who was appointed by the Duke President to investigate the alleged incident.

Two other law faculty members at Duke, Walter Dellinger and Erwin Chemerinsky, will complete the panel.

They will be arguing the merits of two upcoming cases, Boumediene v. Bush and Al Odah v. United States.

The Moot Court will be preceded by a panel on executive war powers. The panel includes John Yoo, a Berkeley law professor who, during his time at the Department of Justice, helped write the PATRIOT Act and memos arguing for the legality of torture; Walter Dellinger, a Duke law professor who served as acting Solicitor General in 1996-97, arguing a record nine cases before the Supreme Court during the term; Linda Greenhouse, a Pulitzer-winning reporter for the New York Times; and Suzanna Sherry, Herman O. Loewenstein Professor of Law at Vanderbilt University.

The panel on “Executive Power and the War on Terror” begins at 6:05 p.m. in the McGlothlin Court Room with a welcome from Professor Neal Devins, director of the Institute of Bill of Rights Law.

Friday night’s activities in the Court Room conclude with a panel on the Roberts Court. That panel will include Duke constitutional law professor Erwin Chemerinsky, Stanford law professor Kathleen Sullivan, Greenhouse, and Yoo.

Saturday begins at 8:15 p.m. with a continental breakfast in the lobby. Saturday’s panels are as follows: Individual Rights, 9:00 a.m.; Business, 10:00 a.m.; Criminal, 11:00 a.m.; Election Law, 1:30 p.m.; and Judicial Modesty and Conclusion, 2:30 p.m.

For more information on this year’s Supreme Court Preview, see the display in the law school lobby or e-mail Melody at ibrl@wm.edu.

Prosecutorial Abuse & the Duke Lacrosse Case

September 14, 2007, 2:00 - 3:30 pm
Hennage Auditorium, Colonial Williamsburg

Panel Members will include:
Stuart Taylor
Jim Coleman
Erwin Chemerinsky
&
Walter Dellinger

Stuart Taylor will be signing copies of his book Until Proven Innocent in the law school lobby after 3:30

Tickets are free but are required and may be reserved at IBRL@wm.edu

That,” Taylor said.

Among the lessons are those for both citizens in general as well as those specifically for law students.

“This case really is about how the criminal justice system sometimes misfires, and unfortunately it happens fairly frequently. It is just that most law students and most law abiding people don’t notice and don’t pay attention to it because they think it doesn’t affect them,” Coleman said. “What this case illustrates more than anything else is if criminal justice is not working, it affects all of us and potentially can ensnare anyone in the system.” The media attention itself adds another dynamic to be considered, Coleman said. “Probably quite a few of our students are probably going to have to represent a client in a case that gets a lot of media attention, and I think it is one of those things young lawyers generally have not been trained to do. It is a new experience, but it is really important to do it right and have some sensitivity to the various issues that arise in these cases,” he said.

Second-year students should have received tickets to the discussion from their Legal Skills partners. All other students can email IBRL@wm.edu to reserve a ticket. Tickets are free. The discussion will be held at the Hennage Auditorium in the DeWitt Wallace Decorative Arts Museum from 2:00 to 3:30 p.m.

Taylor’s book will be available for purchase in the law school lobby following the panel discussion.


**News**

Wednesday, September 12, 2007

**Congratulations Shana**

*Continued from pg 1.*

Shana Hofstetter receiving the 2007 George Kerr Scholarship Award. Photo courtesy of the Alumni Affairs Office.

Shana Hofstetter received the 2007 George Kerr Scholarship Award. She traveled to locations such as Brazil and Indonesia for her work at the Initiative for Policy Dialogue, a Columbia think tank committed to promoting economic development and the exploration of policy alternatives in developing countries. Shana spent this last summer in Kosovo where she had hoped to assist in drafting a new constitution for the country. However, due to pressure from the Russian government, the resolution granting Kosovo independence was dropped in favor of a U.N. resolution that ordered 120 days of negotiations between Serbia and Kosovo’s ethnic Albanians, but will no longer automatically call for independence. With those plans scrapped by international pressures, Shana spent the summer clerking for the Supreme Court of Kosovo under Judge Kathleen Weir.

Shana’s extensive international experience and the fact that she has taken probably every international law course offered at Marshall-Wythe put her ahead of the competition for this award and will undoubtedly serve her well as she pursues her career in international law.

**Wren Cross**

*Continued from pg 2.*

studied at William & Mary as an undergraduate, expressed satisfaction with the compromise. “It preserves the history of the College’s ties to the Anglican church, while ensuring that the venue can appropriately host both religious and secular functions, anything from weddings to Phi Beta Kappa inductions.” Julia Bishop (1L), who graduated from the College in the spring, expressed a more skeptical point of view: “I feel like they skirted the issue by putting the cross in a box, like an artifact at a museum.”

The compromise does not signal a definite end to the cross controversy, and, according to Professor Meese, the Committee on Religion at a Public University will continue to meet and sponsor panels on this and like issues.

The controversy does not seem to have had a negative effect on admissions statistics. According to an Aug. 7 press release, the school received a record 10,859 applications for fall undergraduate admission. Indeed, President Nichol seems optimistic about the College’s stature even in the wake of the debate. In an Aug. 31 interview with the Flat Hat, he cheered the academic strength of the freshman class, indicated his aim to restore relations with donors like McGlothlin, and approved the compromise as a “strong step forward.”

**APOLOGIZE FOR SLAVERY?**

Legal Scholar Explores the Pros and Cons

Thursday, September 20, 2007, 3:30 pm
Room 120 of the Law School

University of Alabama Law Professor Alfred Brophy will speak on the topic, “Considering a University Apology for Slavery: The Case of William & Mary President Thomas R. Dew” at the William & Mary School of Law.

A question-and-answer period and a reception will follow.

For more information about this event, please contact Joy Anastasia Thompson, Symposium Editor, at jathom@wm.edu, (757) 345-6884

The Institute of Bill of Rights Law

WILLIAM & MARY

**Bill of Rights Journal**

The new display case for the Wren Cross. Photo courtesy of Whitney Weatherly
What Does an Entertainment Lawyer Do?

by Abby Murchison
Assistant News Editor

What does an entertainment lawyer do? I’m not really sure. That was the humorous response from Ed Komen, a bi-coastal (Washington and Los Angeles) entertainment lawyer, at the Aug. 30 Lunch with Lawyers presentation. Komen is a partner at Sheppard Mullin practicing entertainment and intellectual property law. The two practice areas overlap substantially. Komen started out doing entertainment law in L.A. When he transferred to Sheppard Mullin’s D.C. office to work in the intellectual property industry, his L.A. clients remained loyal, so he now works on both coasts.

“I’m not really sure” does not adequately describe the career of an entertainment lawyer. “A little bit of everything” is perhaps more accurate. Unlike property or torts, there is no body of law for entertainment. There is no Restatement to look to for guidance, and common law on the right of publicity is not nearly as thorough as that of negligence. But the development and growth of entertainment law is why so many young attorneys want to get involved in the industry—that and the fact that working with Kanye West seems more fun than working with JPMorgan.

Entertainment lawyers can be responsible for everything from helping pick titles of films (more on that later), to contracting for endorsement deals, litigating with studios about compensation benefits, and much more. Although many entertainment law firms are small boutique agencies that specialize in a subset of the industry (for example, working with studios, talent, or entertainment litigation), a large firm like Sheppard Mullin is different and is involved with clients in all aspects of the entertainment and media industries.

Speaking of his recent work, Komen described working on licensing issues with new restaurants that developed in D.C., defending a toy manufacturer who was sued for trademark infringement, and working to expand a game show in eastern Africa that supplies prize money to students to further their education. The variety of his work is also a testament to his skill. Although he is modest about his successes as an attorney, Komen’s level of expertise on trademark and entertainment issues is at the top of the field.

He has worked with a number of large multi-million dollar clients and has a great track record for success. The most interesting story he shared, however, did not gross a lot of money for his clients.

Snakes on a Plane. Most people remember the movie, but few have seen it. “It’s an awful film, I enjoyed it too,” Komen replied to a student at the luncheon. For such an awful film, which grossed only thirty million dollars nationally, most of us still know a little about the movie (or we can infer something from the title—we are in law school, after all). The reason we all remember Snakes on a Plane but do not remember, say, Friends with Money, is because of the huge amount of Internet publicity. Bloggers were terribly interested in this oddly named film, and YouTube had hundreds of spoofs of Samuel L. Jackson performing Snakes on a Train, Snakes on a Bus, and Snakes in a Car.

One of Komen’s duties as counsel was to figure out what to do about all of the unauthorized exposure the film received. Instead of attempting to sue the bloggers (which never works and almost always backfires), Komen and his team decided to do what Hollywood does best—spin the exposure to help promote the film. They held contests and awarded prizes to the best spoofs of Snakes on a Plane. The internet buzz is almost certainly the reason that Snakes on a Plane opened number one at the box office. Unfortunately, after the first week, it plummeted in sales.

Another task Komen had on the film was to help think of a name. Snakes on a Plane was the working title the screenwriter used, and it was expected that eventually something more creative would replace it. Nothing more creative was ever thought of, and Komen checked the trademark to see if Snakes on a Plane was ever used in a film before. Not surprisingly, it had not. Working on just one project, an entertainment lawyer must be well-versed on a number of legal issues in order to fully meet the client’s needs.

Whether interested in working with talent, defending the studios, or negotiating contracts for either party, there are many ways to practice entertainment law. Unlike many other industries, there is no set path to work in entertainment. Ingenuity, industry experience, and hard work are good traits for a successful entertainment lawyer. And as the industry adapts to new media and the 24/7 eyes of the internet, it is helpful for attorneys to be just as up-to-date with their clients. Because TMZ will be watching, even if you aren’t.

Upcoming Events

Look to this space for news about speakers, student organization meetings, and other events at the law school. If your organization has an event in the next month that you would like advertised, please e-mail TheAdvocateWM@gmail.com.

Wednesday, Sept. 12
Hinz Luncheon—11:30 a.m. in Dean’s Conference Room, Dean’s Office.

Military Law Society—Meeting, 12:30-1:00 p.m. in Room 134. Contact Joelle Laszlo for more information.

ASP Workshop—“Time Management,” 1:00-1:50 p.m. in Room 120.

Black Law Students Association (BLSA)—Meeting, 6:30-9:00 p.m. in Room 124.

Thursday, Sept. 13
Institute of Bill of Rights Law—Student Division (IBRLSD)—Meeting with guest lecturer, 12:50-1:50 p.m. in Room 127.

Children’s Advocacy Law Society—Interest meeting, 1:00 p.m. in Room 133.

Election Law Society—Organizational meeting, 1:00-1:50 p.m. in Room 141.

Friday, Sept. 14
Writer’s Workshop—“Memo Writing,” 1:00 p.m. in Room 124.

Constitution Day 2007—The Institute of Bill of Rights Law is sponsoring the William & Mary Constitution Day 2007 event, “Prosecutorial Abuse and the Duke Lacrosse Case,” 2:00-3:30 p.m. Tickets are required and may be reserved at ibrl@wm.edu.

Friday-Saturday, Sept. 14-15
Supreme Court Preview 2007-08—The Institute of Bill of Rights Law marks the commencement of the new term of the United States Supreme Court each year with its Supreme Court Preview conference. Now in its twentieth year, the Supreme Court Preview brings together leading Supreme Court journalists, advocates, and legal scholars for a day and a half to discuss and analyze the Court’s upcoming term.

Saturday, Sept. 15
SBA Bar Crawl—Join SBA as we travel from JM Randall’s to Hooters, then to South of the Border, and then to a final stop at the College Delly. There will be drink specials at each stop, and dinner specials at South of the Border. Tickets are $12 and include transportation and a sweet T-shirt! Tickets will be on sale from 11:00 a.m.-2:00 p.m. every day in the lobby until we sell out. They’ll go quick, folks, so get them while you can!
Tom Jackson Project Crushes Hopes and Steals Candy from Babies

by Tara A. St. Angelo
Co-Editor-in-Chief

In a tournament full of surprises, it was no surprise that the powerhouse (or rigged team, depending on how you look at it) the Tom Jackson Project led by David Bules (3L) swept yet another law school softball tournament. Tom Jackson Project has been making the William & Mary Softball tournament a little less fun for everyone for the past seven years.

Six teams entered the tournament this year. Runner-up No Drinking During Practice, captained by Andrew English (2L), gave Bules’ team a run for their money, and almost a heart attack. It was a tie for third place between the Jacksy Bilsborrow Project, led by J.D. Goodman (3L), and Tub Girl (formerly Balls in Your Hanging File), with Alex Chasick (3L) at the helm. (Please, whatever you do, do not Google Tub Girl if you do not know to what it refers. If you chose to do so, The Advocate takes no responsibility for the images you will see). Contrary to the team’s name, the Jacksy Bilsborrow Project did not include Bilsborrow in their lineup. Bilsborrow could not be reached for comment. Fifth place was also a tie, between two teams of 1Ls, Barely Legal and Hammeredtime.

After much debate, over margaritas at South of the Border, it was decided that Tub Girl and Jacksy Bilsborrow Project would play their first games against eachother. Originally, Tub Girl was scheduled to play the Tom Jackson Project, but Bules decided to allow Tub Girl to start the day with some semblance of dignity. In last year’s softball tournament, Tub Girl’s predecessor, Balls in Your Hanging File, spent the entire day stumbling drunk, did not win a single game, and their pitcher/umpire was reprimanded by the authorities for intense intoxication and obscenity (i.e. wearing a mesh mid-drift top and exposing his stomach). Balls’ performance last year prompted an amendment to the softball tournament rules which dictates that an umpire must be sober.

No one actually cares what plays were made in this game. As per usual, Tub Girl was a disgrace to the game of softball. At any one time there were at least three drinks on the field. Captain Chasick took the pitcher’s mound in the first inning wearing a Kenneth Cole t-shirt emblazoned with the words, “We All Have AIDS,” his beer baby belly protruding underneath his badge of offensive language. During the top of the second inning, in his usual showboating style, Chasick attempted to run from first to third on an obvious single, inevitably colliding with third baseman Bin Wang (3L). Wang exited the scuffle unscathed. Chasick, however, broke his wrist. Chasick said of his injury, “With the cast on my wrist I now have a permanent cup holder.” The Captain continued to use this cup holder well for the remainder of the tournament. Relief pitcher and designated driver, Asim Modi (3L) filled in for most of the day and Chasick took a spot as the first base coach.

Chasick was not the only casualty in this game. First baseman Jennie Cordis (2L), who wore a shirt proclaiming that she is “Proud of My Hole,” took a line drive to the shin. Unlike Chasick, Cordis continued to contribute significantly to the team without exposed her stomach. In addition, Aida Carini (3L) managed to play with strep throat, catching several fly balls for outs in every game.

Tub Girl lost the game, but regained a little bit of their dignity, against Jacksy 9-7. Tub Girl lost to the Tom Jackson Project in their second game. However, Tub Girl scored an impressive five runs against Tom Jackson in one inning.

Like the team’s Knight in Shining Armor (or glistening sweaty tank top), Chris Gottfried (2 ½ L) stormed onto the field for Tub Girl’s third game and to begin drinking. (For those that do not know, Gottfried was an invaluable part of Balls in Your Hanging File last year. He was able to play the outfield while past out on his back).

Tub Girl rounded out day one with a win over Barely Legal. Tub Girl almost lost more players to injuries in this game when the outfielders Jason Wool (2L) and Nathan Pollard (3L) collided while chasing down a fly ball. Luckily Wool’s layer of sweat bands and Pollard’s layer of sweat prevented any serious injuries.

According to Bules, the best games of the tournament were between Tub Girl and Barely Legal. The first game was decided on a walk off single with a close play at the plate. Tub Girl won that game 9-8. They met again in the semi-finals and Tub Girl again won, 15-13. Tub Girl celebrated by shot gunning beers. Bules commented, “These were the two most evenly matched teams throughout the tournament and played the closest games.”

In the Championship game Tom Jackson Project jumped out to an early 7-3 lead, but No Drinking During Practice wouldn’t go away, coming back to make the score 7-6. Tom Jackson Project then pulled away for good at 16-6. No Drinking During Practice cut the lead to 3, but Tom Jackson Project grabbed another championship by a 21-15 final.

Sadly, I have no highlights from Hammeredtime’s games to share, but they contributed a significant tailgating effort to the tournament, taking the honor of being the only team to bring a grill.

The tournament both started and ended with a bang: Jason Stickler hit two home runs over the fence in his first two at-bats of Tom Jackson Project’s first game against No Drinking During Practice. English then hit a home run over the fence in No Drinking During Practice’s last at-bat of the championship game. In 5 games, Tom Jackson outscored their opponents 90-37.

After approximately 7 years the legendary Tom Jackson Project has never lost in Williamsburg, including the law school tournament and intramurals. The team carries on every year with 3L’s coaching the team. Tom Jackson Project will be representing William & Mary Law at the UVA National Law School Invitational in the Spring.

The tournament’s organizer and despot Bules leaves us with a few words, “We had a great tournament this year. It was the first year every team was permitted to advance to the second day of the tournament, and the teams responded by playing their best games to get the top seeds. It was also a great event for everyone to come out and tailgate and get to know each other. Thank you to every team for making the tournament possible.”
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.

PSF-Funded Prosecutorial Summers

by Eric Anderson

I knew it was going to be an interesting summer before I even got to my office for the first day of work. I got an email that said, in part, “Please be in the office by 8:00 a.m. I have scheduled a two-day Murder Jury Trial and I need to be in Court by 8:30 a.m.” When I got to Petersburg my first day, we did quick introductions, and went straight over to the Circuit Court. Over the first two days of my internship at the Petersburg Commonwealth’s Attorney’s Office, I saw the entirety of a murder jury trial. From voir dire, where most of the Caucasians and all of the military veterans were excluded by (we guessed, from the gallery) defense counsel’s peremptory challenges, all the way through the horribly anticlimactic end—a hung jury.

I learned early, which attorney I wouldn’t hire to defend anyone. The defendant tried to throw one attorney under the bus—claiming that she (the defendant) had no idea that she was going to be on trial for “X.” The attorney followed the model rules, broke confidentiality, and informed the court that they had, in fact, prepared for trial on the charge at hand. When the defendant was sentenced, the attorney came into the gallery and said, just loud enough for me to hear, “Try to throw me under the bus—I’m glad she’s going to jail.” I was pretty shocked by that, I’ll have to admit. I mean, no attorney was sent to jail for contempt or anything—but after the repeated emphasis we got last year on “zealous representation,” I was shocked to hear an attorney say she was “glad” over a guilty verdict for her client. It was one of my biggest surprises this summer.

by Brandon Harter

We started off on a slower pace—a much slower pace—than Eric simply because our attorney didn’t warn us he’d be in court that morning. Therefore, we got to start with the paper work. Although, in the long run, it was just the same, plenty of chances to be in Circuit Court, General District Court, and the Juvenile and Domestic Relations (JDR) Court. I got to see several jury trials, beginning to end, but I have to say I spent as much time watching the attorneys as I did the jurors during that process.

We definitely learned what not to do. There was one trial that went through voir dire and everything, got into opening statements, and then we were reminded what happens when you don’t listen to the judge’s orders. Let’s just say the day ended a little early for the jurors, and the defense attorney got himself thrown off the case mid-trial! Sad part was the defendant didn’t have anything to do with it. I guess it just reinforced the “human element” to the legal system and how that can change things. Did you have any moments like that?

I think that happens in a lot of cases, that the defense attorneys are asked to do their best to defend persons who might very well be guilty. I think in the end they do what they can and still look at themselves in the mirror at the end of the day. My biggest surprise this summer was just the speed of the proceedings. There were so many cases on each attorney’s desk, and so many cases on the court dockets, for that matter, and yet it was completely normal to see a case go through multiple continuances and be prosecuted months after the charges came down. Even with Virginia’s fairly clear “speedy trial” requirements, the system seemed to be going fast and slow at the same time. I definitely got to see plenty of action in and out of the courtroom, and my overall experience working for the Commonwealth was excellent. I’d definitely recommend it to anyone interested in criminal law or who wants to spend a few days a week in the courtroom, especially with a practice certificate when you can try a few cases yourself.

Striving for a Low Carb(on) Lifestyle

by Kelly J. Pereira

A group of young professionals, many of whom are W&M undergraduate and graduate alumni, recently formed the Back Porch Energy Initiative (BPEI) to promote energy efficiency. On Friday, Aug. 31, members of the Environmental Law Society (ELS) ventured to the mysterious Keck Lab (well, mysterious to those of us unfamiliar with the main campus beyond Swem or the gym) to learn about the fledgling organization.

Although BPEI had advertised bands and food, the bands did not arrive as scheduled, the weather was uncooperative, and donuts and cookies did not quite dull our hunger pangs. It quickly became clear that the agenda for the evening was fundraising and not education, so ELS migrated earlier than anticipated to the Green Leafe. Nonetheless, ELS was impressed by BPEI’s mission: beginning in October, BPEI intends to spend ten or more months traveling around the southeastern United States in an energy-efficient bus in order to raise awareness about carbon emissions and to develop grassroots solutions to the problem.

According to literature distributed at the event, “The Southeastern United States has the highest per capita consumption rates in the country, is the fastest growing region in the country, and spends only one fifth the national averages on energy-efficiency programs and resources.” One can well believe this data when reflecting on the energy needed to keep the law school library at sub-zero temperatures.

BPEI is soliciting sponsors through and promises to keep a blog of its travels at http://www.backporchei.org. If you are interested to know what your personal ecological footprint is, go to http://www.earthday.net/footprint/index.asp. If you would like to know how much carbon is released by each of your flights to a callback interview or elsewhere, go to http://www.carbonfootprint.com. This website also has great information about reducing or offsetting your carbon footprint in general, but the personal carbon emissions test requires information that the average person is unaware of. For a simplified test and a comparison of your personal score to the national average, visit http://www.climatecrisis.net/takeaction/carbon-calculator/.
Unemployed Logic

by John Newton
Features Staff Writer

Law students should not take themselves seriously. It’s such a simple statement, but its truth seems to be lost on six hundred and thirty-four individuals at Marshall-Wythe. One quick glimpse down the halls of our venerable law school will reveal anxious first-years, stressed second-years, and over-committed third-years scurrying from class to class. Conversations tend to be frantic and, well, boring. How will I ever recover from the five minutes of class I missed when I had to go to the bathroom? Susie had five interviews, and I only had four; why does every firm hate me? If I skip my class tomorrow, will I fail out of my final year of law school? Yes, I realize that law school is important, and doing well is a priority. But every once in a while, it is good to step back and laugh at yourself as a law student, because the one quality that is inextricably intertwined in the fabric of every law student is this: we are ridiculous. This column will be your guide to reminding yourself of that fact.

Since it is the beginning of the school year, and a large number of students are searching for employment, I found it appropriate to focus my first article on the darker side of job interviews. The Office of Career Services heroically attempts to ensure that each interaction with a potential employment suitor goes smoothly. What happens when their attempts are thwarted? Since I have exhorted each of you to stop taking yourself so seriously, I will heed my own advice by beginning with a story about myself. It was my first interview in my first year of law school. The two interviewers sat across the table from me in a cramped room on the second floor of Marshall-Wythe. With a false confidence that can only come from inexperience, I answered each question with a twinkle in my eye. Why yes, I would be willing to go the extra mile if a project proved unexpectedly difficult. Of course I will shine your shoes if you ask. Then came the question that took my twinkle and spit on it: will your schedule next year allow you to take this job?

Somewhere, I had failed to notice that the job for which I had applied was for the next school year and not for the fast-approaching summer. As the gravity of it all hit me, my pen flew from my right hand, landing across the room. The uncomfortable silence was only broken when I had to brace my fall from my chair with my left hand as I stretched too far to reclaim my errant pen. After I righted myself, my attempts to downplay my surprise concerning the job’s timeframe were foiled by my cover letter, which may have stated that I was thrilled at the opportunity to work with them over the summer.3 In a bold move, these employers failed to extend to me an offer of employment.

Thankfully, my faux pas do not constitute the extent of embarrassing and awkward interview stories from our student body. Most students can recall a time when they realized that employment is a privilege and not a right4 after they flubbed an interview. Each part of the interview is delicate and should be treated as such. For instance, be sure to choose your outfit wisely. An anonymous third-year sat down during her interview, only to hear a loud ripping sound. Afraid to show too much of herself to the interviewers, she gracefully backed out of the interview room, with her pride around her ankles.5 Another unnamed third-year student at Marshall-Wythe sat in a room with an awkward, startled associate who appeared flustered and unable to focus on the questions he asked. Unsure if the associate was merely taken by her overwhelming attractiveness, the student attempted to complete the interview with as much poise as possible, despite the stifling heat that had caused her to remove her jacket. As she finished the interview, the student stood up. It was only then that she noticed that her lovely pink blouse was unbuttoned to the top of her stomach and at attention, revealing ample skin to the shaken associate.

Even if you manage to properly attire yourself for your interview, you may fail prey to the rapid-fire questions interviewers throw your way. When quizzed about her favorite aspect of law school, one anonymous third-year responded, “Reading cases and talking about them.” She and the associate sat in silence, neither able to swallow the honey-coated lie on their plate.6 The perils of bad responses by the interviewee are not the only danger to avoid. Sometimes, the interviewer can make the situation complicated, as Geraldine Doetzer discovered. One associate bragged about his adroitness in the arena of poetry. Before she could react, he insisted on reciting a Pablo Neruda7 love sonnet, while she listened in horror. When he questioned Geraldine about her favorite love poem, she knew that she would never enter the doors of that firm again. Julie Wenell shared with me her experience at a job fair in Chicago. The interviews were conducted in a hotel room, and two blonde, petite associates were ready to talk to Julie. After introductions were made, one of the associates decided that she was tired. Naturally, she went into the next room to take a nap; instead of interviewing Julie. At a job fair in New York, Isaac Rosenberg approached his friend, Tara St. Angelo, who had her back to him. In as sarcastic a voice as possible,8 he told her how much he liked her seersucker suit. She turned around, but it was not Tara. However, it was an associate who would later interview him for a job which he would not get. He did feel better, though, when he learned that her name was also Tara.

As you finish your interview, you might think that the possibility of embarrassment is over. You would be wrong. An anonymous third-year student received a rejection letter from his favorite firm. Disappointed, he decided to forget about it and move on to other employment opportunities. This would have been much easier to do without the next eight rejection letters he received from the same firm that had spurned him earlier. An interoffice mix-up provided him with a daily reminder of his deficiencies.

Job interviews present us with important moral: even law students are not perfect. Laden with our intellectual superiority and self-importance, we occasionally trip over our own clumsy feet, only to land face-first in a column poking fun at us. But as long as you don’t take yourself too seriously, you might even be able to laugh it off.

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1 Susie is meant to be a fictitious law student, albeit a very on-the-ball fictitious law student with her five interviews.
2 Or you can laugh at a fellow law student . . . unless he or she is packing heat.
3 Note to all OCS employees who might be reading this article: I swear that I learned my lesson about the lack of attention to details very quickly after this interview. And maybe this horrible excuse for an interview can be viewed in the light that it led to a good story for this article. What’s that? Too soon?
4 I hearken back to the amazing days of riding a bus to school. At the front of my bus was a sign that reminded us that riding said bus was a privilege, not a right.
5 Thankfully, her skirt was not in a similar position. It was merely a rip.
6 This comment also becomes even more ridiculous when you can personally attest to the bountiful number of days which said student has failed to read for class.
7 A quick Google search of this wordsmith reveals his bent toward communism. . . enough said.
8 And if you know Isaac, that’s pretty sarcastic.
Don't Take This Seriously, But...
Hey 1Ls, Don't Do This. But Do This.

by Nathan Pollard
Features Staff Writer

Welcome back to school all you rambunctious 3Ls, you now-lame 2Ls; and a hearty welcome to the wide-eyed, wondrous, and naïve 1Ls. For you regular reader(s), the format will pretty much be the same as last year, but this year I will try to dig deeper into the issues that influence our daily lives: such as more stuff about funny things people did when drunk the past weekend and calling out people for being toolbags. Also, you may have noticed that my article is now for being toolbags. Also, you may have noticed that my article is now

For the first article of the year, I thought I would do something I absolutely hate to do: give people advice. Now I know what you all are thinking: “But Nathan, your advice is so strong/powerful/pertinent, I don’t know if I deserve it.” Fear not, this advice is not for 3Ls or even those 2Ls (who are starting to realize in the past few weeks the reason why the 3Ls didn’t go out every night last year). These juicy nuggets of life lessons are strictly for 1Ls. Join me as we set off on an adventure of the mind through the Do’s and Don’ts of law school.

I will start with the “Do’s,” because, let’s be honest, these are going to be more fun. To start, there is a certain person at our school—whose name reminds you of the kids in elementary school who couldn’t fit their hyphenated names on standardized test forms—who has the greatest of all (for lack of a real word) toolbaggedly tendencies. Please take everything that this person says, writes, signs, or smoke signals with a gigantic grain of salt. Understand that this person has made quite a reputation for himself at the school, which comes close to that of Ann Coulter or Michael Moore in the greater world. Now I know I made a promise last year to never mention this person’s name in an article again, and while I have not mentioned the name here, I thought this was too important to the 1Ls to keep out of the article—so I will try not to mention this person again, but said individual has already started up again this year on one of his quixotic “democratic quests”—so I just don’t know if I can make promises. Now, after this paragraph, it’s like daddy just hit mommy and the kids are being yelled at to keep eating. Didn’t mean to bring the mood down a bit, but this is probably the most important thing I can try to get across to the 1Ls.

Don’t raise your hand in class unless you really have an answer to a question or a question that is actually pertinent to class discussion or what people will need to know for the exam. An “answer” does not mean a phrase that starts with “I think . . .” or “Well when I worked at the sanitation factory . . . .” An “answer” to a question is, “it says that . . .” or “the Judge meant . . . . .” When asking a question, be very careful. There is nothing more annoying than people asking questions that are simply curiosities. Real questions are ones that you think someone else would find helpful to understanding the class. If you are in your Criminal Law class, don’t start whining about how you left your credit card statement in your mailbox like an idiot and subsequently found $900 in charges from Claire’s. Also, no one wants to know about how you were once in San Marino for a church group trip and how that county does things differently with regards to its policy on murder. Yep. That’s great. Thanks for the addition.

This one may come as a surprise to you: everyone knows that law school is like high school—don’t keep talking about it. I know that it is like NBC’s programming during the summers—if you haven’t seen it, it’s new to you—but we all know that there is drama (and if you haven’t experienced it yet . . . just wait till the day after bar crawl), and we have all been there. You will hook up with some random person who you didn’t want to, it will get around, and then two months later, after not having spoken to random person since the awkward hookup, some guy who looks like a Trekker, who you have never seen before but is supposed to be your year, will ask you if you are still dating “whatsface” or “that dude.” It sucks, I know. The only way to avoid it is to already be married, never speak to anyone else at the school, or leave it entirely. So I say embrace it—get yourself a nice reputation, get to know the bartenders at the Leafie, receive a fun nickname like “Mougs” or come to class riddled with human bite marks all over your body. Also, if you are kind of a crazy-pants, please come out more often because I am always looking for new material for this article.

Finally, don’t be a toolbag. This really encompasses everything I have said so far. This year is going to be hard for you, second year is going to be worse (a courteous “haha” to the 2Ls) and 3L year (at least in my experience thus far) will be like senior year in college, except that you actually may have a job afterwards. Everyone at this school is friendly—don’t hold your notes ransom. If someone needs notes for class or an outline near exam time—don’t toolbag it up—give it to them. You will hear this from a billion people but please heed their warning: DON’T talk about your exams after you take them. Once you leave the exam, either leave the school and do something fun or talk about something else. Don’t be annoying while playing sports—everyone here is type A. Calm down, you are in law school, you are like 26 years old, and you are not the NBA or NFL or UFC. Don’t show up late to class or you will get a nickname. Finally, DON’T buy Alex Chasick drinks . . . buyers beware.

Now the Do’s: There aren’t as many of these because the don’ts are, lets be honest, more important—but take heed of these anyway. Do go out a lot. You are in law school, you will work

Continued on pg 10.
by David Bules
Features Staff Writer

Another year. Another class has graduated. Another class has come in. Welcome back everyone. I love the familiar sights of fall at Marshall-Wythe. 1Ls, your week o’ drinking is over. 2Ls, you’re all tucking in at night wearing suits instead of pajamas. 3Ls we’re . . . well . . . we’re not doing much of anything. Since Nathan has decided to take on the subject of what to do and not do as a 1L, I’ll take on “The Fabulous Life of a 3L,” VH1 style.

We’ve all heard that overused adage from other attorneys: “First year, they’ll scare you to death. Second year, they’ll work you to death. Third year, they’ll bore you to death.” Well I don’t agree with the first two 100%, but the third year is pretty dead on. I never felt scared 1L year, but definitely over-worked. As a 2L, it wasn’t all about the work for me. It was about juggling 53 softball games with other important events, such as Fall From Grace, Barrister’s Date Auction, Ski Trip, and Bar Crawl. It was tough, but we made it through. As a 3L, the boredom has kicked in. Mainly it’s because there’s no real expectation of 3Ls, other than graduating. We take a backseat to the more important 2L job searching, and 1L law camp. Don’t get me wrong though, I’m not complaining about the boredom. I’m embracing it.

As 3Ls, the majority of us have two real tasks day-in and day-out: read and go to class. Now, there are plenty of 3Ls on journal editorial boards, and I applaud their hard work. There is also Sarah Fulton, SBA President. There is Ryan Brady, Honor Council Chief Justice. There is Amy Markopoulos, the Chief Justice of Moot Court. There are other organization presidents hard at work. But, for every one of them there are three Nathan Pollards or Rob Thomases. We admittedly do virtually nothing at school. So what DO we do? Well let’s talk about various 3Ls and what they are up to these days.

First up, Josh Whiteley, Scott Miller, and Joey Noble. Representing over half of the “southern contingent,” these three have golfed roughly 23 rounds of 18-holes since they returned to Williamsburg. Capitalizing on a good deal at Golden Horseshoe Golf Course, when they are not in class you can rest assured they are working on their putting games. Next, I’ll pick on Dave Peters and myself, the other half of the South. (Editor’s note: David Bules is from Kanton, Ohio). In between our “busy” schedule of classes we’re likely doing one of two things: playing Corn Hole, a Midwestern game involving throwing bean bags at a wooden board with a hole in it, or finding any reason at all to go to the Leafe. Scott and Dave live together across the street from me on Mimosa and ever since Scott’s Corn Hole boards arrived, fresh with NASCAR driver star Tony Stewart’s face plastered all over them, we have found excuses to stop what we’re doing for a game.

Next up, let’s go with the beautiful 3L ladies. One such group includes Sarah Fulton, Kim Rosensteel, Amy Owens, and Chrissy Totta. Now, Sarah is the hardest working SBA President I’ve seen in my time here, but she and her friends make time to have some fun as well. These girls make the most of their time when they are not in school. While some of us have reserved ourselves to just one activity (golf, corn hole), the girls can be found in a variety of places, but always having a blast. For instance, Scott Miller may have conned them into watching NASCAR one night, but the next night they may be out to a classy dinner. OK wait a second, let’s not kid ourselves here, what they really do is . . . well . . . they drink. And then wait around for Kim to say something quotable. But, no matter where they are, they are always the life of the party.

Nathan Pollard and Eric Topor are two busy 3Ls. Nathan, entering his 7th year in Williamsburg, can frequently be found spotting Eric as he benches a small car at the Rec Center. The Rec Center actually had to add more padding to the ceilings, in case Eric doesn’t put enough weight on the bar, which sometimes causes him to accidentally throw the bar through the 15-foot ceilings. Eric ran track at Maryland, but his real passion is standing in front of the mirror. Nathan works out just as often as Eric, but Nathan’s hair is more important to him than building muscle. While Eric stands in front of the mirror, Nathan takes his turn standing in front of the giant fan with his precious locks flowing in the wind. With hair like that, you can’t blame him or the ladies gawking at him.

I have to throw in a plug for my two wonderful roommates. Tom Robertson has decided that all he is going to do this year is surf . . . wait, that’s all Tom has ever done anyway. Megan Erb spends her Saturdays screaming at our 2nd family room TV, where her Buckeyes are usually destroying some other team (except the Gators). Side note, yes we have two family room TV’s. Come on, how else could we watch fifteen college football games every Saturday? The two family room TV’s thing has caught on quite nicely. Two other law student houses have followed suit this year.

Sometimes you wish certain 3Ls had more to do. But overall, we are an interesting group to watch. So next time you hear a 2L say, “I wish I didn’t have 37 interviews today,” or a 1L say, “I wish I wasn’t spending 20 hours a week on Legal Skills.” First, smack them for being ridiculous. Then remind them their 3L year will come soon enough.

Seriously

Continued from pg 9.

hard, but you also need to meet people, and relax every once in a while. Also, I need funny stories for my article to keep this little slice of Americana going. Do go to bar crawl, Fall From Grace, Barrister’s, Flip Cup, Softball Tourney, Rob Thomas’s bedroom. These will all be a lot of fun and will help you experience a diverse, thrilling, sometimes scary, but overall rewarding time at the law school. Do try to get involved in the school-run for office, honor council, but make sure you don’t toolbag it up (see earlier) in the process. If you have the time–do come help clean up my house after parties (don’t worry, you are totally invited). Do email me with any comments/concerns/funny stories you would like me to add because I love knowing that more than two people actually read the article (and nooo I don’t count my mom as one of the readers). Finally, do vote for F. Scott Scotch in the upcoming 1L SBA election: he has a plan that will give you the best year of your lives. He is a good friend of mine, and I truly think that this is his year to finally be elected to represent the 1L class. Please be on the look out for his posters and materials during election time. Scotch won’t Botch!
ELPR Editor-in-Chief Katy Mikols

This year the women have taken control of the journals as the editors-in-chief of three of the law school’s four scholarly publications (I say scholarly publications because The Advocate is also in the clutches of two females). They are like the Charlie’s Angels of editing. Andy Scott is the editor-in-chief of Law Review, but his Y chromosome did not fit into the “girl power” theme of the Blawgs this week.

Clevelander Katy Mikols has taken control of the William & Mary Environmental Law & Policy Review (ELPR). Apart from her love of inflicting mental anguish on 2Ls, Mikols took the job as Editor-in-chief of ELPR because she has never been one to turn down a challenge. Case in point, her job choice before attending law school.

After graduating from John Carroll University, Mikols decided that it would be a top notch career move to sell beer in the Dawg Pound, the bleacher seats in the Cleveland Browns’ stadium.

To give you an idea of how hazardous to your health it is to merely be present in the Dawg Pound, here are a few examples of the gentlemanly behavior that occurs in the cheapest seats in the Browns’ stadium. Browns officials actually had to ban dog food in the stadium because bleacher fans would shower the visiting team with Milk Bones and other varieties of pet treats. Dawg Pound fans, known for their insane consumption of alcohol have snuck a keg into the stadium inside of a doghouse. At the final game at the original Cleveland Stadium in 1995, fans seated in Dawg Pound ripped the bleachers from the stands and threw them onto the field. Mikols, on several occasions, had to cut off the alcohol supply to a 300 pound man with his chest painted brown and orange. Comparatively, Mikols finds the 2Ls to not be much of a challenge.

If you thought that Iowa has never produced anything of value, then you have never met Julie Wenell. Although I myself am still bitter that Iowa has produced several blemishes on the face of society, meth, Slip Knot, and Ashton Kutcher, I have grown to accept Wenell. The daughter of a cattle farmer, Julie stepped down off her tractor to attend Iowa State University. However, Wenell has big dreams. On her path to become Supreme Overlord of the World, she has taken the job as the Editor-in-chief of the Bill of Rights Journal. It is yet to be seen if Wenell’s thirst for power will ultimately destroy her.

In addition to her desire for “pure unadulterated power [insert maniacal laugh],” Wenell also loves being able to make things up when she does not know the answer. Her stint as an EIC is her practice run for creating the law of the world. She also enjoys “not having to stand by the copy machine doing cite checks” and spending hours in her cushy office, which is bigger than those of ELPR and Women & the Law.

Hofstetter obviously enjoys beating up men three times her size, she worked for several non-profits before coming to William & Mary.

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However, Wenell feels the pressure and a “sense of impending doom” in that she will soon be spending much of her life in her HUGE office.

It is also unsure if Wenell will cross paths with the other power hungry dictator of the journals, New York City resident Shana Hofstetter. Hofstetter prepared herself to be leader of The Journal of Women and the Law (lovingly referred to as Lady Law), by attending Smith College. She points out that Smith “is a women’s college, not a girl’s school.” Although, like Mikols, Hofstetter obviously enjoys beating up men three times her size, she worked for several non-profits before coming to William & Mary. Hofstetter says of her job experi-
Rob Thomas and the Billing Factory

by Rob Thomas
Features Staff Writer

While it is true that the interviewing process for large regional and national law firms is about as much fun as making out with a circular saw, I am here to assert that the whole ordeal is worth it. I was lucky enough to receive an offer for a summer associate position out in Denver, and it was the most magical and wondrous summer of my life. However, it wasn’t completely without peril, and many of my fellow summer clerks paid gravely for their actions and mistakes.

The letter containing the actual offer and orientation schedule was printed on a sheet of gold as thin as paper, and it instructed the summer clerks to meet inside the lower lobby of the firm at precisely 9:00 a.m. I arrived about fifteen minutes early and made slightly awkward small talk with the other clerks. At exactly 9:00 a.m., we heard one of the elevators ring, and a parade of fake-tanned (almost orange) attorneys, all wearing nearly identical business-casual outfits, marched into the lobby. They were hunched over from carrying stacks of depositions, briefs, and various memoranda, so that they stood barely taller than children. Mr. Avaricious explained that they were “junior associates,” whom the firm rescued from the hostile and dangerous wilderness of government and non-profit employment. In return, they billed hours. The junior associates formed a circle around the fountain and began to sing a catchy song admonishing Günther for trying to take even more from the firm when the firm was already providing so many benefits to the summer clerks. Once they finished their song, they shuffled back to their offices as quickly as they arrived.

Once Mr. Avaricious assured us that Günther would be fine, we walked into a nearby room, where we saw a ruby-encrusted gondola docked in a river of molten silver. We rode in the gondola past several ornate doors and passageways, but stopped at a very austere-looking door, which resembled a large hatch in a submarine. Mr. Avaricious informed us that the firm had developed a revolutionary new way to pick the most financially worthwhile cases to pursue and the wealthiest clients to develop business with. Mr. Avaricious opened the hatch, and we walked into a large, white amphitheater with hundreds upon hundreds of small employees sitting in concentric circles, frantically shuffling through papers. In the center of the room was a large hole, and the employees were tossing papers, briefs, and pleadings down the hole from where they sat.

Upon further inspection, the employees were actually badgers. Yes, badgers. They even wore little badger suits. The older ones wore little badger spectacles. Mr. Avaricious explained to us that the badgers read hundreds of thousands of potential cases and client profiles, keep the most lucrative ones for future reference, and toss the rest into the pit. I asked why they used badgers, and he replied “Why not? They’re fast and they work for mealworms.”

Here in the badger room, another one of our clerks met with a tragic accident. When Mr. Avaricious asked if we had any questions about the sorting process, a student from Georgetown named Victoria raised her hand:

“But what about pro bono?”

The room was instantly silent. The badgers completely stopped what they were doing and they stared at Victoria with their beady brown eyes. One of the badgers let out a little grunt and suddenly every badger in the room swarmed towards Victoria. They picked her up on their furry little backs, led her to the pit in the center of the room, and threw her in. Once we could no longer hear her screams, the badgers scurried back to their seats and went back to work. Almost as if it were rehearsed, the junior associates filed into the room and sang a song about aggravating badgers with talk of pro bono, civic duty, and citizen lawyers. Mr. Avaricious assured us that Victoria would be ok, but that she just wasn’t a “good fit” for the firm. Once we left the badger room, Mr. Avaricious informed us that it was time for lunch. Mr. Avaricious led us to an extravagant dining room, where an unbelievable spread of food and drinks was already laid out for us. We were each assigned to two or three firm partners to sit with and get to know. Before we sat down to eat, Mr. Avaricious warned us not to talk too much about ourselves, if only because it reduced the amount of time that the partners could talk about themselves and their practice areas. He cast a warning eye towards one of the clerks named Patricia, who obviously loved to talk about herself and had already made several unsuccessful attempts to schmooze with Mr. Avaricious.

Predictably, Patricia began telling her assigned partners about her prior work history as a legal secretary and paralegal, her knowledge and experience with the nuts and bolts of litigation, her volunteer work with various legal aid foundations, as well as accomplishing all of these things as a single mother. The partners nodded politely, but they were obviously bored. She excused herself to use the bathroom, and the partners looked at each other and winked. When she returned, they quickly offered her some orange sorbet to cleanse her palate. In between bites, she continued to ramble on about her personal accomplishments, but as she talked, her head grew steadily larger, as if an invisible water hose had been jammed into her ear and turned on full blast. She finally noticed when her head reached the size of a large watermelon. Finally, it became so big that she could no longer stand up. Like clockwork, the junior associates marched in with a large wheelbarrow, threw her in, and wheeled her out of the room. All the while, they sang a song about foolish summer associates trying to schmooze attorneys into giving them final offers by brown-nosing and mentioning every single goal or achievement ever accomplished. That was definitely my favorite song. Nobody else that day drowned in jewels, fell down a large pit, or suffered permanent disfigurement. As for the rest of the summer, I met a lot

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Features

SBA Update: The SBA’s Fight for Law School Rights

by Sarah Fulton
Contributor & SBA President

The opinions and views expressed herein are those of the writer and NOT The Advocate or any of its staff members. Although opinion pieces are edited for grammar, they are not edited for content other than correcting factual mistakes.

For relevant sections of the SA Constitution and Code and the Review Board petition, please see pg. 16.

For this first edition of The Advocate, I wanted to talk about many of the upcoming activities that the SBA has planned and all of the things that we are currently working with the administration on (For example…parking!). I decided to change my topic because of events carrying over from last year between the SBA, the Student Assembly, and the Law School Honor Council involving a Student Assembly, and the Law School year between the SBA, the Student Assembly, and the Law School.

I thought that this issue was resolved and the autonomy of all of the graduate schools preserved. The other day, however, I received notice that the SBA and the SA have been named as respondents in a review board case on the undergraduate campus by petitioners Alan Kennedy-Shaffer (2L) and Coggin, challenging the constitutionality of the SBA’s appointments.

I want the student body to be informed about this issue and my struggle to allow the law school and other graduate schools to continue to self-govern and act in ways that best serve our unique needs. The issue goes beyond the law school’s decision to appoint SA Senators, and rests on the degree of autonomy and freedom to act that we have enjoyed up until this point.

I have decided that the best way to approach this issue is to publish the response to the Review Board that I was forced to write within 72 hours. At this point in time I do not know if the Review Board will deem a hearing necessary. Our response is based upon history, precedent, and the explicit text of the SA Constitution. I have chosen to redact portions of our argument that refer personally to the Petitioner, Kennedy-Shaffer, in the interest of objectivity and courtesy to a fellow student. Any questions about this redacted portion, or this response and amendment in general are welcome and encouraged.

I. THERE IS PRECEDENT REGARDING THE CONSTITUTIONALITY OF THE GRADUATE SCHOOLS’ ABILITY TO CHOOSE HOW STUDENT ASSEMBLY SENATORS ARE SELECTED IN THE SENATE INTERNAL AFFAIRS COMMITTEE.

The Petitioners have previously attempted to evade the Student Assembly Constitution’s (“Constitution”) explicit provisions by putting forth a baseless due process argument. The due process argument has continually been Petitioners’ last resort, because the Constitution explicitly grants all graduate schools the right to appoint senators to the Student Assembly.

On April 29, 2007, the Student Assembly Senate Internal Affairs Committee (“Committee”) met in the Student Assembly House and discussed a constitutional amendment sponsored by Senator Coggin [redacted]. The new Student Bar Association President inadvertently found out about this proposed amendment the day before. The proposed amendment’s effect would have given the power to run all law school elections to the undergraduate elections committee, as well as altered and destroyed the law school’s time-honored policy of allowing the elected Student Bar Association officers and representatives to appoint the law school’s Honor Council and Student Assembly Senators.

[Redacted] [T]he law school sent the two student Assembly Senators and three student leaders from the law school to amend and/or defeat the bill in committee. Not surprisingly, after hearing the arguments of the law students as well as Mr. Coggin and Mr. Kennedy-Shaffer, a committee member made a motion to strike the entire bill and amend the bill. The amended language allowed all graduate schools to continue appointing Senators, and allowed them to send alternate Senators in place of the appointed Senators, in the case the appointed Senators could not attend certain Student Assembly Senate meetings. The changed amendment passed with unanimous consent of the committee.

Two nights later, on May 1, 2007, a law student suspended writing a timed take-home final exam in order to attend the meeting of the entire Student Assembly Senate to protect the bill from any re-amendment and to vote in favor of the amended bill. [Redacted] After spending three hours away from the final exam in the Student Assembly meeting, the law student finally made a motion to move the amendment up the agenda for discussion and a definitive vote. The motion received a second, and at this point Chairman of the Student Assembly Senate Matt Beato, stood up to speak in favor of the changed amendment, and urge all Senators to vote in favor of the amended bill. The Senate passed the amended version of the constitutional amendment by unanimous consent, the version that the Internal Affairs Committee passed which did not contain Mr. Coggin’s [redacted] original proposals. Again, neither Mr. Coggin nor Kennedy-Shaffer were present when the Student Assembly convened to hear this business. It is clear from the actions of the Student Assembly Senate and its Internal Affairs Committee that they support the Law School and other Graduate Schools’ intentions to maintain the current process of appointing Graduate School Senators.

The Student Assembly Senate has resoundingly supported the law school and other graduate schools’ right to appoint Senators and general interpretation of the Student Assembly Constitution. Further, the Internal Affairs Committee, unanimously rejected Mr. Coggin’s [redacted] proposed amendment, which would have destroyed the autonomy of the graduate schools’ Senator appointment process. Finally, with the Senate’s choice to allow the law school to file this joint response on behalf of both Respondents, it is clear that the Senate would like the graduate schools to continue the current process. Chairman Beato has stated as much, noting that he would like the law school to handle this issue, because the Undergraduate Senate does not have such a vested interest in the Graduate Schools’ Senator appointment process as to alter it. Therefore, with the support of the Undergraduate Student Assembly Senate, Respondent Student Bar Association requests the Review Board maintain the current appointment process explicitly granted in the Student Assembly Constitution.

II. THE FRAMERS’ INTENT
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Continued from pg 13.

AND THE LANGUAGE OF THE STUDENT ASSEMBLY CONSTITUTION ALLOWS THE GRADUATE SCHOOLS THE ABILITY TO CHOOSE HOW STUDENT ASSEMBLY SENATORS ARE SELECTED.

Petitioners allege that “letter and spirit of the Student Assembly Constitution and Code favor the interpretation that all senators must be elected, including senators from the graduate schools.” Petitioners’ opinion in this matter is incorrect based upon the framers’ intent and the explicit and implicit language of the Student Assembly Constitution.

In Respondents’ research of the issue at hand, contact was made with Mr. David Solimini who was on the Constitutional Review Committee during the later half of 2002 and took on the role of the principal author of the Student Assembly Constitution in question. Mr. Solimini responded that “[g]enerally speaking, the intent of the language in the Constitution was to allow Grad schools to determine the best way to select senators.” Mr. Solimini went on to state that “[i]n any number of areas, the [C]onstitution is explicit for elections for undergrad senators but vague when it comes to graduate senators. Furthermore, there are a number of areas where graduate bodies are allowed flexibility, often by omission from requirements, which undergrad bodies are not.”

As the Graduate Schools approval was required for the drafting of the Student Assembly Constitution, there was considerable flexibility and a general grant of autonomy to the various Graduate schools in order to ensure their support. The Student Assembly Constitution drafters’ intent to allow the Graduate Schools to determine the appropriate method of selecting and sending Student Assembly Senators could not be more clear. Mr. Solimini has offered to write an amicus brief in support of the Respondents if the Review Board should so allow.

The Constitution of the Student Assembly of The College of William & Mary in Virginia explicitly grants the Graduate Council the discretion to decide how Graduate Senators are sent. Canons of Statutory Interpretation require that a more specific provision trumps one that is more general. Article I, Section 1.2...is a general provision. The authors of this document, however, continued in more detail to establish how Graduate Senators are to be chosen. Therefore the general provision does not imply that elections are required for Graduate Schools and the next sentence states explicit rules of election concerning Undergraduate Senators. This is just one example of where there are clearly defined explicit instructions for the Undergraduate. This specificity is purposefully lacking for the Graduate Schools.

Within the article that creates the College’s election process, Article V, section 3.4...is a specific provision. This provision applies solely to Graduate Senators. There is no mention of election, only selection. [redacted] Other provisions, such as Section 2.2 specifically regulate the schedule of Freshman Elections. Statutory documents frequently begin with broad assertions. Then, as the document proceeds, its provisions become more specific. The Constitution of the Student Assembly of The College of William & Mary in Virginia is no exception. Thus, Article V, section 3.4 of the Constitution of the Student Assembly trumps Article I, Section 1.2. When construing statutory documents or constitutional documents where two provisions seemingly contradict or differ from each other, the two provisions must be read in pari materia, which means they must be construed together as one. The Student Assembly Constitution is a classic case of when provisions should be read in pari materia. Although the general provision of Article I, Section 1.2 uses the term election for all senators, Article V, Section 3.4 states that Graduate Senators shall be sent. The later provision in Article V, Section 3.4 clearly explains, and elaborates on a specific exception to the general provision of Article I, Section 1.2. It should be noted that in pari materia is a concept courts follow every day: “In construing statutes and determining legislative intent, several provisions of an act or acts, in pari materia, must be construed together with a view of reconciling and bringing them into workable harmony if possible.” [redacted].

III. THE GENERAL AUTONOMY OF THE GRADUATE SCHOOLS HAS BEEN PROTECTED THROUGH HISTORY AND THE STUDENT ASSEMBLY CONSTITUTION.

The autonomy of Graduate Schools is evidenced through the general dynamic of the William & Mary community. Graduate Schools determine what to do with the funds that they are granted, are subject to different rules, have their own deans, and the decisions made by their governing bodies rarely, if at all, affect the undergraduate population.

The Petitioners make reference to the fact that last year’s law school Senator did not attend all meetings of the Student Assembly. Not only has that issue been dealt with by the law school’s new SBA President and her new Senator(s), but that problem is in no way indicative of appointment or election. The absence of a Senator is the problem of the president of the school who sent that senator and of the Student Assembly in their possible decision to remove said person from their seat. One of the many reasons that the law school opted to appoint their Senators is because this better enables the elected members of the Student Bar Association the ability to control the attendance of the Senator and mandate a reporting requirement of that senator. [Redacted]

Sarah Fulton is a third year law student and the SBA president.
Without a Vote: SBA Disenfranchises Law Students

by Alan Kennedy-Shaffer
Features Editor

The opinions and views expressed herein are those of the writer and NOT The Advocate or any of its staff members. Although opinion pieces are edited for grammar, they are not edited for content other than correcting factual mistakes.

Nineteen fourteen stands as the year in which “We the People” began electing our United States Senators. Two thousand seven will, hopefully, mark the year in which “We the Students” of the William & Mary School of Law begin electing our United States Senators. Let us do our part here at William & Mary and defend democracy.

Contrary to the Student Assembly Constitution, however, the Student Bar Association (SBA) appoints the law school’s senators following a brief application and interview process. Handpicked behind closed doors by SBA officers, appointees usually know little about the position for which they are selected and rarely attend the Senate’s weekly meetings.

The law school’s last senator during the 2006-2007 school year, for instance, did not attend a single meeting during the entire spring semester while new senators were being selected by a newly elected SBA.

The SBA’s appointment of Student Assembly Senators directly violates Article I, Section 1.2 of the Student Assembly Constitution, which states, “The Senate shall be composed of members chosen in election every year by the students of the College.”

The SBA’s continued refusal to allow students at the law school to choose their own representatives to the Student Assembly also violates Section 2.1-2.1 of the Student Assembly Code, which states, “The members of the Senate shall be elected according to the guidelines created by the Elections Committee. The composition shall be in accordance with the structure indicated by Article I; Section I; Clause II of the Constitution of the Student Assembly.”

Although opponents of free elections might tenuously interpret Article V, Section 3.4, which states that “Graduate Senators shall be sent, and Graduate School Officers chosen, as the Graduate Council shall designate,” to exempt graduate senators from the election requirement, the structure and purpose of the Student Assembly Constitution clearly favor democracy over disenfranchisement.

Article I, Section 1.2, which structurally and logically precedes Article V, Section 3.4, reflects the democratic spirit of the Constitution by explicitly requiring annual elections in order to prevent the type of patronage that currently taints the appointment process.

The apportionment clause, which allows senators to be “apportioned among the Schools as the Graduate Council shall designate,” is further evidence that the Student Assembly Constitution delegates to the Graduate Council the allocation of senators while leaving intact the democratic principle that all senators must be elected. Construing the apportionment clause to mean that the Graduate Council may not only decide the number of senators elected from each graduate school but also decide whether those senators are elected would be legally unconscionable.

Even the SBA Constitution does not support the argument that the SBA may deny law students the right to elect their Student Assembly Senators. The SBA Constitution does not mention the Student Assembly, granting the president only the power to “make all necessary appointments.” The SBA Constitution instead guarantees the “full integrity of all elections” and “due process,” rights undermined by the SBA’s unwritten policy of disenfranchisement.

Reached via telephone on Sept. 1, SBA president Sarah Fulton (3L) refused to discuss with me either the SBA’s undemocratic and unconstitutional appointment policy or any other issue. Fulton, however, has agreed to speak with any other staff member of The Advocate.

In the past, Fulton has defended disenfranchisement on the fallacious grounds that the SBA has appointed senators as long as anyone can remember. At an Internal Affairs committee meeting on April 29, Fulton attacked Senator Will Coggin’s proposal to bind “graduate candidates for elected positions . . . by the same elections rules as undergraduates” as “a bit offensive” because she played no part in drafting the proposal.

Fulton seemed less concerned about the substantive rights at issue and more concerned that any election rules changes would make the SBA look bad: “It makes it seem we’ve been doing things wrong.”

Three days prior to the Internal Affairs Committee meeting, at which I pointed out that the SBA’s practice of appointing Student Assembly Senators violates the Student Assembly Constitution, Fulton sent an email to the law school’s Grad Council appointee in which she accused me of “wrecking havoc [sic] . . . [by] attending SA meetings and addressing the senate when our senator wasn’t there.”

In a petition recently filed with the Student Assembly Review Board, Coggin formally challenged the SBA’s appointment of Student Assembly Senators in violation of the Student Assembly Constitution. As a firm believer in the virtues of democracy, I join Coggin in defending the right of all students, including law students, to elect their representatives to the Student Assembly.

Because the SBA receives more than $20,000 from the Student Assembly each year, according to Secretary of Finance Andrew Blasi, Jr., all law students have a stake in the composition of the Senate. If the SBA continues to appoint senators in violation of the Student Assembly Constitution as Fulton desires, the Student Assembly may refuse to continue funding the SBA, an outcome infinitely worse than new elections. On the other hand, if all law students were to attend Student Assembly meetings and defend the law school’s interests in the absence of our unelected senators, the SBA might well receive more money and not have to charge exorbitant sums at Barrister’s Ball.

Because the letter and spirit of the Student Assembly Constitution and Code favor the interpretation that all senators must be elected, the Senate should not seat any unelected, law school senators. The Student Bar Association should recall any appointed senators and hold elections in accordance with Article I, Section 1.2 of the Student Assembly Constitution and Section 2.1-2.1 of the Student Assembly Code.

Our basic right to choose our own representatives in free and open elections lies at the heart of this debate and warrants the vigilance of all of us who continue to believe in the Jeffersonian vision of American democracy. In some small way, our school’s legacy is on the line.

Just as Congress and the states had the good sense in 1914 to establish the direct election of U.S. Senators, let us do our part here at the College of William & Mary to defend democracy and defeat those who would disenfranchise us all.

Alan Kennedy-Shaffer is a second year law student and the Democratic Inspector of Elections for his home polling precinct in Mechanicsburg, Pennsylvania.
Petitioners: Sen. Will Coggins; Alan Kennedy-Shaffer
Respondents: SBA; others

Summary: Petitioners challenge the SBA's appointment of Student Assembly senator(s) in violation of the Student Assembly Constitution, which states that the SA Senate “shall be composed of members chosen in election every year by the students of the College.”

Discussion: [Redacted] The question facing the Review Board is whether the Student Assembly Constitution excludes the six senators from the graduate schools from the explicit Senate election requirement. Petitioners argue that granting an exception to the Constitutional requirement that all members of the Senate be chosen in election would be inconsistent with the letter and spirit of the Student Assembly Constitution and Code.

While Respondents may argue that Article V, Section 3.4 of the Constitution permits the Graduate Council to decide the manner in which the various graduate schools choose their senators, Article I, Section 1.2 indicates otherwise, guaranteeing graduate representation while restricting the Graduate Council’s ability to undermine the election requirement. The apportionment clause grants the Graduate Council the right to decide how many senators each graduate program may send to the Student Assembly while leaving intact the democratic principle that senators must be elected.

Article I, Section 1.2, which appears before Article V, Section 3.4 in the Constitution, reflects the democratic spirit of the Constitution by explicitly requiring annual elections in order to prevent the type of patronage that currently taints the appointment process. The Graduate Council and the Student Bar Association have the right, pursuant to Article I, Section 5.2 of the Student Assembly Constitution, to elect their own officers, representatives, and council members “as they see fit” and to implement policies “on matters that are internal to the Graduate Schools. Legislation from the Graduate Council may not be inconsistent with that passed by the Senate.”

Article IV, Section 1.1 of the Student Assembly Constitution, which states that the “The Constitution of the Student Assembly shall be the supreme law of the Assembly and those under its jurisdiction,” takes precedence over any inconsistent regulations propagated by the Grad Council or the SBA. In this case, Petitioners challenge the SBA's appointment of Student Assembly senators in violation of the SA Constitution, which states that the SA Senate “shall be composed of members chosen in election every year by the students of the College.”

Because the letter and spirit of the Student Assembly Constitution and Code favor the interpretation that all senators must be elected, including senators from the graduate schools, Petitioners ask the Review Board to direct the Senate not to seat any unelected, graduate senators. Petitioners also ask the Review Board to direct the Student Bar Association to immediately recall any appointed senators and to hold annual Student Assembly Senate elections in accordance with Article I, Section 1.2 of the Student Assembly Constitution and §2.1-2.1 of the Student Assembly Code.

This is a true and accurate copy of Coggins’s and Kennedy-Shaffer’s petition to the Student Assembly Review Board, which has scheduled oral hearings.

THE CONSTITUTION of the STUDENT ASSEMBLY of the COLLEGE OF WILLIAM AND MARY IN VIRGINIA
Ratified January 20, 2003

ARTICLE I: LEGISLATIVE BRANCH
Section I: Creation of the Senate

... II. The Senate shall be composed of members chosen in election every year by the students of the College. There shall be sixteen Undergraduate Senators. Chosen, four per Class, by the members of that Social Class. There shall be six Senators from the Graduate Schools, apportioned among the Schools as the Graduate Council shall designate, provided every School is represented by at least one Senator.

... V. Creation of the Class and School Officers

... II. Each Graduate School shall elect a President, Vice President, Treasurer, Secretary and other such representatives and council members as they see fit. These School Officers, when in meeting, shall be known as the Graduate Council. This Council shall have legislative authority only on matters that are internal to the Graduate Schools. Legislation from the Graduate Council may not be inconsistent with that passed by the Senate. Subsequent legislation passed by the Senate may supersede that of the Graduate Council.

ARTICLE IV: NON-SPECIFIC REQUIREMENTS
Section I: Authority and Supremacy

I. The Constitution of the Student Assembly shall be the supreme law of the Assembly and those under its jurisdiction.

ARTICLE V: ELECTIONS

... III: Senatorial, Class and School Officer Elections

... IV. Graduate Senators shall be sent, and Graduate School Officers chosen, as the Graduate Council shall designate, provided that Senators and Officers are selected no later than the last Tuesday of the following September.

THE CODE of the STUDENT ASSEMBLY of the COLLEGE OF WILLIAM & MARY IN VIRGINIA

TITLE 2: THE LEGISLATIVE BRANCH

Chapter I: The Bylaws of the Senate

... §2.1-2 Membership

§2.1-2.1 Election
The members of the Senate shall be elected according to the guidelines created by the Elections Committee. The composition shall be in accordance with the structure indicated by Article I; Section I; Clause II of the Constitution of the Student Assembly. (09 Apr 2003, SB 310-005)

§2.1-2.2 Attendance
1. Each Senator is allowed three absences per semester.

... (09 Apr 2003, SB 310-005)