The Advocate (Vol. 5, Issue 5)
Removing the Wren Cross
‘the Right Thing’ to Do

by Rob Poggenklass
News Editor

Two of the nation’s premier Establishment Clause scholars agree that although the Wren Cross situation may have been handled poorly by college administrators, removing the cross from its prominent place in the Wren Chapel was, at least in legal terms, the right thing to do.

Bob Tuttle and Ira “Chip” Lupu, who have co-authored an article for the upcoming W&M Bill of Rights Journal (BORJ) and who both teach law at George Washington University, spoke during the BORJ Symposium on Higher Education and the First Amendment on Friday, Oct. 26 at W&M Law School.

About fifty-five people attended the two-part symposium, which was organized by student members of the Journal and moderated by William P. Marshall, solicitor general in the office of the Ohio Attorney General.

The Wren Cross controversy began in October 2006, when college officials, backed by President Gene Nichol, decided to remove the cross in order to make the chapel a non-denominational space. An uproar ensued, with several alumni filing lawsuits and withdrawing financial gifts they had promised to William & Mary.

“There was an explosion,” said Tuttle. “That includes one of the lowest lawsuits I’ve ever seen, which was dismissed on standing grounds.”

Nichol and the Board of Visitors reached a decision to restore the cross in March 2007, but they put it inside a case to the side of the chapel, rather than in a place of prominence at the entrance, where it had been before.

Despite the controversy, Tuttle and Lupu agreed that the outcome was probably the right one.

“It was the right thing,” said Tuttle, who attended W&M as an undergraduate. “It may have been done the wrong way—it probably was done the wrong way.”

The two professors have studied the Establishment Clause of the First Amendment for many years. A major problem in this situation, they said, is that William & Mary became a public institution in 1907 but the Wren Cross was not installed until the 1940s—some 200 years after the chapel was built.

“The chapel is old,” Tuttle said. “The cross, not so old.”

In establishment controversies such as the one of the Wren Cross, Lupu said one thing is clear: The state is not permitted to advance religious truths. He said that, constitutionally, these battles are often fought by religious advocates—typically Christian—along two fronts.

“Either Christian speech has been excluded from the public square and they want to get it back in,” Lupu said, “or it’s been included and they want to keep it in and keep it in its privileged position.”

Lupu said that, in recent years, religious advocates have been successful when they have argued for putting religion in places where it has previously been excluded. However, in public places where religious speech has enjoyed a prominent place—such as the Wren Cross—Lupu said courts have often come down on the secular side.

Tuttle said it was strange, after coming to the college as an alum for more than twenty-five years, to see the Wren Cross gone. Lupu, a first-time visitor to the Wren Chapel last month, took a different view.

“As someone walking in for the first time, it’s easy to see how if the Wren Cross were still where it used to be, that it would make the space a Christian one,” he said.

Also speaking at the BORJ Symposium were Ken Marcus, staff director at the U.S. Commission on Civil Rights; Stephen M. Feldman, law professor at the University of Wyoming; Lane Dilg, staff attorney for the American Civil Liberties Union; Frank Ravitch, law professor at Michigan State University; and William Van Alstyne, law professor at William & Mary.

Panel Discusses the Impact of Domestic Violence on Children

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

On Nov. 1 the Child Advocacy Law Society (CALS) brought a panel to the law school to discuss how domestic violence laws intersect with child welfare and child protective laws. Law Professor Vivian Hamilton introduced the panel of Maryann Lee of Social Services Child Protective Services of James City County, Sarah Serra of Williamsburg’s Court Appointed Special Advocates (CASA), Erin Pitre of Williamsburg’s domestic violence shelter Avalon, and Greg Baine, the lead prosecutor in Hampton for domestic violence issues and adjunct Legal Skills Professor.

Professor Hamilton opened the panel discussion with a ten minute summary of the history of domestic violence laws, noting that domestic violence laws intersect with the rights of children through child welfare laws, child protective laws, and child custody laws. (Professor Hamilton took this time to also note that throughout the evening the panel would refer to women as the victims of domestic violence, but that men are the victims in a small percentage of cases.) Child welfare laws in some courts allow the victim of domestic violence to be at fault if a mother allows the abuse to continue, resulting in the child’s mental problems. Child protective laws revictimize the victim of domestic violence by tak-

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INSIDE
Louis Fisher Discusses State Secrets and National Security

by Alan Kennedy-Shaffer
Features Editor

Visiting Professor Louis Fisher, a renowned constitutional scholar at the Library of Congress, discussed national security, state secrets, and presidential power at a packed lecture hosted by the Institute of Bill of Rights Law on Thursday, Oct. 25.

Fisher expressed frustration with the opaque nature of many of President George W. Bush’s signing statements.

“Most of the signing statements are annoying because they say, for instance, ‘This legislation is unconstitutional under the Appointments Clause,’” Fisher said. “But why?”

Fisher also discussed the Gang of Eight, the eight highest-ranking members of Congress whom the White House singled out to receive briefings on the National Security Agency’s controversial surveillance program. He thinks that Congress needs to have more “guts” standing up to the Bush Administration’s refusal to share information and documents.

“You probably have heard of the Gang of Eight,” he said. “I think it’s foolish of members of Congress to get involved in that because then the Administration can say, ‘We talked to Congress about the Terrorist Surveillance Program.’ Now the White House is coming to Congress for immunity for the telecoms—who probably broke the law. Immunity for what? We don’t know yet what the Terrorist Surveillance Program was,” he said.

Fisher elicited laughter from the audience when he joked about the infamous tortious memo that the White House has refused to show to Congress or to the press.

“I don’t know much about waterboarding,” he said. “I have to wait until I get clearance.”

Lamenting the persistent failure of Congress to stand up to the Bush Administration’s demands, Fisher pointed to a decline in pride in Congress as an institution. Congress is more fragmented and weaker than it was two decades ago, he said.

“Congress doesn’t seem to have much guts to protect itself,” said Fisher. “So I don’t have much hope in that regard.”

Fisher emphasized that a strong legislative branch is crucial to the checks and balances set forth in the United States Constitution.

“If you let Congress be weak, you are letting democracy be weak, and you are letting people’s rights not be protected,” he said.

The law students who listened to Fisher speak seemed impressed by Fisher’s knowledge of the state secrets doctrine and other national security issues. They also liked Fisher’s objectivity and ability to transcend partisan politics.

“Lou Fisher, unlike many, doesn’t identify national security law and expansion of executive power as a partisan issue,” said Todd Garvey (2L), who helped to organize the lecture. “This is not about President Bush. This is about preserving the intended constitutional roles of the branches of government through the foundational principles of separation of powers and checks and balances. This is about the Constitution,” he said.

“It was an interesting view on the president’s inherent powers,” said Brian Kargus (2L).

The author of sixteen books, including In the Name of National Security: Unchecked Presidential Power and the Reynolds Case, Fisher also taught a one-week, one-credit course on the state secret privileges from Oct. 22-26.

Meet the Russian Open World Delegates

by Kelly Pereira
Co-Editor-in-Chief

Three Russian lawyers visited Marshall-Wythe and dispelled some generalizations and misconceptions about law in Russia. Did you know that there is environmental law in Russia? Would you be surprised that this representative group of Russians have tolerant attitudes about Muslims and Chechens?

The Russian lawyers visited Washington, D.C., Richmond, Virginia Beach, and the Historic Triangle as delegates of the Open World Program. The Open World Program is a non-partisan initiative of Congress that works with host organizations to facilitate exchange between Eurasian and American leaders.

In the past few years, the James City County Rotary Club has partnered with the International Law Society (ILS) to host Russian lawyers. Rotary Club members serve as host families, and law students serve as drivers and tour guides. The Rotary Club generously foots the bill for the cost of weekly activities.

From October 26 to November 3, Brian McNamara (3L) and Satya Baumgartel (2L) organized a series of activities for the Russian delegates to enjoy. Other ILS programs continued on next page.

Correction:

The article on Professor Marcus from the last issue was erroneously attributed to Suzanne Seurattan. It was actually written by Jaime Welch-Donohue.
The three Russian lawyers (Andrey, Sergey S., and Sergey V.) were also accompanied on their visit by a program facilitator and translator (Yuri and Igor). The delegates had not previously visited the United States. Each had some conversational or listening ability in English, but their facilitator and translator assisted in much of the conversation. The delegates were an inquisitive group, and their questions ranged from substantive law to social dynamics including, gender politics.

Andrey supervises criminal investigations at the Khabarovsk Region Prosecutor’s Office. Andrey was very interested in a visit to the Williamsburg Police Station where he discussed the chain of custody of evidence with a forensics analyst. In Russia, unlike the United States, a criminal defendant or his lawyer may exercise the right to be present when any evidence is removed from a crime scene and analyzed elsewhere.

Sergey S. is the General Director of a private firm in the Krasnodar Region that specializes in aid and advice to citizens in civil law relations, socio-political life, and social policy. Sergey S. is a wine enthusiast and enjoyed a visit to the Williamsburg Winery. He shared that some excellent wines come from Russia.

Sergey V. is Associate Professor and Chair of Agrarian and Ecological Law at Tomsk State University. He attended Professor Hamilton’s Family Law class. He observed that the facilities, course load, and teaching style at Marshall-Wythe completely differed from that of a Russian law school.

You are cordially invited to attend a Thanksgiving Dinner on Wednesday, November 14 at 6:00 pm at the Reves Center. Join us to share some traditional Thanksgiving food (cooks needed) and the history and traditions of Thanksgiving in the United States with LLM students.

As space is limited, you must reply to Ima Bassey (2L) at lcbass@wm.edu by Thursday, November 8, 2007 if you are interested in attending and/or cooking.

Sponsored by the International Law Society and the Office of Graduate Studies & Research in Arts & Sciences.
News in Brief

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

Law Students Compete in Marine Corps Marathon

3Ls Ann Battle and Emily Reuter ran the Marine Corps Marathon on Saturday, Oct. 27. Battle finished 52nd with a time of 3:16:08.

Reuter ran the race with her dad, Steve. It was his fourteenth marathon and her second. There were 22,000 runners and, by coincidence Reuter ran the first five miles of the marathon with Caitlin Glass, 3L Brian Glass’s sister. At about mile 15 Reuter pulled her IT band, but she managed to finish, so did her dad. Reuter says, “Even though it was a frustrating day for me, it was a really amazing race (there are Marines everywhere, the spectators are awesome, and you finish right at the Marine Corps Memorial) and a neat father-daughter experience. Although the next time he wants to bond I think we need to choose something that doesn’t require four months of serious training, like touring a brewery or visiting the Hershey chocolate factory.”

3L Ann Battle runs to victory in the 2007 Marine Corps marathon. Photo Courtesy of Ann Battle.

College Implements New Bias Reporting System

A few weeks ago the College’s Diversity Committee created the Bias Reporting System. According to the system’s website, “The Bias Reporting System was established to assist members of the William and Mary community who have been affected by incidents involving bias related to race, gender, sexual orientation, religion, or other protected conditions. The system provides multiple modes of reporting to include personal contact, online form, or faxed form.”

Reports of bias can be submitted in person to various departments, over the phone, or by fax or an online form. According to the website, “A ‘bias incident’ consists of harassment, intimidation or other hostile behavior that is directed at a member of the William & Mary community because of that person’s race, sex (including pregnancy), age, color, disability, national or ethnic origin, political affiliation, religion, sexual orientation, or veteran status. A bias incident may be verbal (whether spoken or written) or physical. Similar systems have been instituted at other colleges, including University of Virginia, Virginia Tech, Georgetown University, Cornell and the University of Wisconsin in Madison. A full page ad was recently taken out in The Flat Hat by a group, FreeAmericasAlmaMater.org, that opposes the new system. In addition, the new system has come under fire from several blogs, including instapundit.com, NationalReviewOnline, and The Volokh Conspiracy. For more information visit the Bias Reporting Website at http://www.wm.edu/diversity/reportbias/index.php.

Torture Evidence Discussed as Part of Distinguished Lecture Series

The Distinguished Lecture Series sponsored by the Human Rights and International Security Law Program brought international human rights lawyer, Professor Michael Scharf, to the law school on Thursday, November 1. In his talk, entitled “When, if Ever, Should Torture Evidence Be Admissible?”, Scharf discussed the role of torture evidence in criminal tribunals. Scharf is the Director of the Cox International Law Center at Case Western Reserve University. Scharf also co-founded the Public International Law and Policy Group, which was nominated for the Nobel Peace Prize in February 2005 for their efforts in prosecuting major war criminals, including Slobodan Milosevic, Charles Taylor, and Sadam Hussein.

Homecoming Celebration Brings Guster to Campus and Long Lines to the Leafe

William & Mary’s 81st Anniversary of their Homecoming celebration brought hundreds of alumni to the campus, and to the Leafe, making it virtually impossible to get into the bar. However, the weekend-long celebration provided more distractions than simply the Leafe could offer. 3L Wes Allen described the main campus as “jungle city” and when asked whether he managed to get into any of the bars, he replied, “I know better.” The Tribe football team played fourth ranked UMass and lost 48-34. 3L and William & Mary undergrad alum Nathan Polland sang in an alumni a capella concert with his former group The Stairwells. In equally exciting music news Guster performed at the Lake Matoaka Amphitheater to a packed house, which included law students Cabell Clay, Greg Demo, Rob Poggenklass, Alison Stuart, and Jason Wool. Rain cancelled many of the day’s scheduled events, including the parade and float contest.

Guster performs at Lake Matoaka during Homecoming weekend. Photo Courtesy of Rob Poggenklass.

Each State party shall ensure that any statement which is established to have been made as a result of torture shall not be received as evidence in any proceedings against a person accused of torture. Evidence that the statement was not such evidence is inadmissible. Photo Courtesy of Whitney Weatherly, Staff Photographer.
With seven published novels, an eighth due out in January, and a ninth in the works, bestselling novelist David Robbins (’76, J.D. ’80), has won accolades as an author. As this year’s Scott and Vivian Donaldson writer in residence at the College of William & Mary, Robbins seeks to inspire aspiring writers.

A graduate of the College of William & Mary and the Marshall-Wythe School of Law, Robbins, referencing an approach he attributed to the late William Styron, author of “Sophie’s Choice,” enjoys trying to “entertain, educate, and elevate, all in equal proportions.”

He said that he feels “very honored” to have been selected to teach a fiction writing seminar this year as part of William & Mary’s longstanding writers in residence program.

“I like teaching,” Robbins said, explaining that he enjoys “taking the mythos out of getting published.” He also finds that his students motivate him to improve his own writing. “When I sit down to write every day, the drums that are beating in that classroom are really resounding in my head,” said Robbins. “I like the class—I like being part of their struggle,” he said.

Students fortunate enough to study under Robbins this semester praised Robbins for his energetic approach to teaching.

“His approach is very engaging,” said Ben Farthing (’09) in a telephone interview. “He has taught me to say what I mean in the most artful and succinct way,” he said.

Professor Nancy Schoenberger, who chairs the writers in residence committee, said that the “glowing” reviews of Robbins’s former students definitely factored into the committee’s selection of Robbins as William & Mary’s twenty-seventh writer in residence.

“Among our creative writing core faculty, we look at writers whom we know, good writers, writers who have some experience, writers who have the desire to teach for us,” Schoenberger said.

Schoenberger said she has received unusually positive feedback from Farthing and other students enrolled in Robbins’s popular fiction writing class. “David is a very dynamic personality and a very involved teacher,” she said.

Because William & Mary does not have a full-time tenured fiction writer, the writers in residence program seeks to fill the void by rounding out the English department’s course offerings.

“It brings in a fresh perspective every year,” Schoenberger said, noting that the program also brings “a little bit of prestige to our department.” Aware of Robbins’s commercial success, the committee hoped that Robbins would offer students “a sense of what the marketplace is like,” she said.

Continued on Pg.10.
Upcoming Events

Look to this space for news about speakers, meetings, and other 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.

All month

CALS will be collecting new teddy bears as well as toys for kids older than 12 (such as footballs/other sports items, makeup, cds, games, etc.) to donate to Child Protective Services in James City County. Contact chadls@wm.edu.

Wednesday, November 7

BLSA Exam Taking Information Session
For members of BLSA only. In Room 137 from 12:50-1:50 p.m. Contact Kelly Samuels for more information.

George Wythe Society Speaker Series—President Nichol, Guest Speaker
Gene Nichol, President of the College of William & Mary, will speak about his work involving civil rights and his journey through higher education as a professor, administrator and president in the context of being a citizen lawyer. In Room 120 at 1:00 p.m. This is the first in a series of lectures that will be hosted by the George Wythe Society this year. For more information contact Josh Whitley (3L) at jswhit@wm.edu.

BLSA Movie: Hotel Rwanda
All are welcome! In Room 119 from 7:00-9:00 p.m. Contact Latoya Asia for details.

Thursday, November 8

Flu Shots
Shots cost $25 and will be available all day in the law school lobby.

Federalist Society & Christian Legal Society Present Kevin Hasson
Kevin Hasson of the Beckett Fund, a D.C.-based public interest law firm protecting the free expression of all religious traditions, will be speaking on religious liberty in Room 124 from 1:00-1:50 p.m. Contact Christian Miller.

Innocence Project Research Committee Meeting
In Room 137 from 1:00-1:50 p.m. Contact Tom Fitzpatrick for details.

BLSA Panel: Issues in Haiti
BLSA presents guest speaker, Nicole Lee of TransAfrica, a non-profit, global justice organization focusing on conditions in Africa, the Caribbean, and Latin America. In Room 124 from 7:00-9:00 p.m. Contact Latoya Asia for details.

Friday, November 9

International School Supply Drive
BLSA will be collecting school supplies for schools in Haiti. Help teach a child and promote worldwide education. In the law school lobby from 9:00 a.m.-2:00 p.m. Contact Latoya Asia for details.

Democratic Law Society Presents Jay Myerson
Jay Myerson, General Counsel for the Virginia Democratic Party, will be presenting in Room 141 from 1:00-2:00 p.m. Contact Aaron Larrimore for details.

Phi Delta Psi (PDP) Initiation
Have you been laced yet? Probably not since our idea of hazing is forcing you to cite check. The initiation ceremony for this international legal fraternity will be held at the home of Professor Tortorice at 6:00 p.m. Contact Brian Kargus for details.

Monday, November 12

Judges for Community Service Luncheon
CALS and the Therapeutic Jurisprudence Society present Judges Barry Logsdon and Kline, judges for Newport News Juvenile & Domestic Relations Court. The Honorable Logsdon and Kline will be sharing their courtroom experiences and promoting various community service initiatives. In Room 141 from 12:45-1:50 p.m. Contact Victoria Starks (3L) to reserve your spot.

Lunch with Lawyers: Choosing Small, Choosing Smart: the Small Firm Job Search
In Room 133 from 12:50-1:50 p.m. Contact Dean Judy Corello to reserve your spot for this luncheon.

Phi Alpha Delta (PAD) Initiation
In Room 119 at 7:30 p.m. Contact Reneta Green for details on how you can be a part of this legal fraternity.

Tuesday, November 13

Students for the Innocence Project Bake Sale
Come bring goodies to help raise money for this group. In the law school lobby from 9:30 a.m.-3:00 p.m. Contact Adrienne Sakyi.

PPD Monthly Meeting
In Room 141 from 12:50-1:50 p.m. Contact Satya Baumgartel (2L) for details.

2007 Mervis Lecture—Marybeth Peters
Marybeth Peters, the U.S. Register of Copyrights, will deliver the second annual Stanley H. Mervis Lecture in Intellectual Property in Room 127 from 1:00-2:00 p.m. She will be discussing contemporary trends in copyright law. Contact Professor Laura Heymann for details.

REAC Conversation Meeting
In Room 135 from 1:00-2:00 p.m. Contact Gloria Todd for details.

Finding International Summer Public Service Internships
In Room 133 from 2:00-3:00 p.m.

Wednesday, November 14

MicroMash Bar Talk
Bar Review & MPRE info!!! FREE LUNCH & 1 FREE REVIEW PACKAGE! Join MicroMash representatives to learn about Thomson West (owner of BarBri’s study-at-home MPRE, full bar review programs. Enjoy lunch, and enter the drawing for a FREE package worth $1395! In Room 134 from 12:50-1:50 p.m. Contact Satya Baumgartel for details.

Semester Abroad Opportunities Information
In Room 124 from 1:00-1:50 p.m. Contact Liz Jackson for details.

Thursday, November 15

“Serving the Public: Government and Public Interest Opportunities for 2Ls and 3Ls”
In Room 141 from 12:50-1:50 p.m. Contact Dean Ramona Sein to sign up for this event.

Friday, November 16

Professor Neal Devins presents Professor Steve Macedo
Professor Steve Macedo of the Princeton University Department of Politics will be speaking for Professor Devins’s Law and Politics class. All are welcome. In Room 133 at 12:00 p.m.

BLSA Guest Speaker on Jena 6
A guest speaker will discuss the legal aspects of the “Jena 6” case in Jena, LA, as well as the larger effect (current state of sentencing and race) in the criminal justice system. In Room 124 from 1:00-3:00 p.m. Contact Megan Tumi (3L) for details.

Singer/Songwriter Fundraiser
The annual Singer/Songwriter Competition is on. The location is still TBA. Contact Jennie Cordis to sign up or for other details.

Monday, November 19

Thanksgiving Basket Competition
BLSA and CLS are asking each Legal Skills firm to submit a decorated basket full of Thanksgiving-related food items. These baskets will be delivered to twelve families in need in the Williamsburg area. This year, as an added bonus, each family will receive a donated Thanksgiving turkey along with their food basket. Baskets will be judged by members of the administration and faculty. The winning firm will receive a pizza party for all members and partners. Submit your basket in the law school lobby from 9:00 a.m.-2:00 p.m. Contact Calisa Smith for details.

BLSA General Meeting
In Room 127 from 12:30-1:50 p.m. Contact Megan Tumi (3L).

Tuesday, November 20

PAD General Meeting
In Room 124 at 1:00 p.m. Contact Reneta Green for details.

Wednesday, November 21 - 23

Thanksgiving Holiday
No classes: Go get your turkey on! Or for the Veg Heads, go get your tofu loaf on!

-- compiled by Jennifer Stanley, News Editor.
CONGRATULATIONS! YOU DID IT!

These 129 members of the William & Mary Law School community provided nearly 4,800 hours of community and pro bono service during the 2006-07 academic year through the Virginia Bar Association’s Community and Pro Bono Servant Program.

Thank you for your commitment to the citizen-lawyer ideal.

Darren Abernathy
Kenneth Abrams
Matthew Adams
Clifford Allen
Demar Alley
John Ambrose
Latoya Asia
Kyle Bahr
Benjamin Baker
Greg Baker
Allison Barger
Jayne Barnard
Satya Baumgartel
Sarah Bellinger
Courtney Bennett
Eric Bergeron
Jonathan Botts
Les Boswell
Eriica Brannon
Anne Brinckman
Miranda Brown
T.W. Bruno
Aida Carini
Julian Carr
Seth Carroll
Jennifer Case
Tara Kate Celender
J. Alex Chasick
Kristen Clardy
Mary Cabell Clay
Jennie Cordis
Elizabeth Dopp Chupik
Christopher Dorsey
Davison Douglas
Layne Dreyer
Joycelyn Eason
Seth Eddy
Emily Eneman
Adam Evans
Carolyn Fiddler
Melanie Forehand
Matt Forgue
Trey Freeman
Emily Friend
Nora Garcia
Aaron Garrett
Todd Garvey
B. Shawaun Gillians
Cara Goeller
Kevin Grady
Kaila Gregory
Shajine Gregory
Dana Harmeyer
Carrie Harris
George Helfrich
James Heller
Ian Hoffman
Neal Hoffman
Tazewell Hubard, III
Lauren Hughes
Nadia Hyder
Lizbeth Jackson
Catherine Jenkins
Adrienne Johnson
Lindsay Kaplan
Robert Kaplan
Brian Kargus
Sally Kellam
Alan Kennedy-Shaffer
Matthew Kertz
Lana Khvalina
Grant Kidner
Ji Kim
Joanna Klein
Sarah Landres
Joelle Laszlo
Brandi Law
John Levy
Christopher Lindsey
Paul Marcus
Angelaine Mason
Janet McCrae
Elizabeth Mercuri
Pia Miller
Asim Modi
Edward Molari
James Moliterno
Brandon Moon
Angela Morehouse
Jason Mullins
Christina Murtaugh
Jessica Myers Moran
Stephen Nesspor
Maryann Nolan
Sara Outterson
Michael Pacella
Clint Paulson
Abigail Peoples
Krista Pietrok
Linda Quigley
Emily Reuter
W. Taylor Reveley, III
Brad Ridlehoover
Patricia Roberts
Lavonda Rowe
Kelly Samuels
Polly Sandness
Bryan Shay
Faye Shealyl
William Sleeth
Andrew Smith
Calisa Smith
Horace (Van) Smith
Loren Smith
Nicole Sornsins
Michael Stanton
Victoria Starks
Brian Sterling
Andrea Stevens
Jason Stickler
Matthew Stuart
Brett Thornock
Megan Tumi
Lindsey Vaala
Jason Wells
Shukita Whitaker
Erica White
Neal Wixson
Jason Wool
$9,250 for a Song? Fordham Law Professor Discusses Developments in IP Law

by Abby Murchison
Assistant News Editor

When Fordham law professor Joel Reidenberg addressed W&M students on Thursday, Oct. 25, he opened with a reference to a news headline that has created quite a stir:

“RIAA Jury Finds Minnesota Woman Liable for Piracy; Awards $220,000.”

Reidenberg, a specialist in intellectual property law, was referring to the controversial Oct. 4 verdict handed down against Jammie Thomas for allegedly distributing 24 songs through Kazaa. Quick division indicates that Thomas, a thirty-year-old single mother, is being ordered to pay $9,250 per song. “That’s a lot more expensive than the going rate on iTunes,” Reidenberg chuckled.

Since 2003, the Recording Industry Association of America (RIAA) has brought legal action against approximately 26,000 individuals accused of trafficking in copyrighted music. According to Reidenberg, most suits are settled out of court for, on average, $4,000. Jammie Thomas, however, opted to take her case to trial, denying that she ever maintained an account with Kazaa and alleging that there was no proof she personally had distributed music.

As Reidenberg pointed out, the judge set a low threshold for Thomas’s conviction. The record labels did not have to prove that the songs on her computer had actually been distributed. The act of making them available for download was enough to satisfy copyright infringement.

In siding with RIAA’s case against Thomas, “the jury returned a verdict that gives credence to the recording agency’s legal strategies,” Reidenberg said.

Even for Reidenberg, the effect of the verdict is difficult to predict. Will it discourage people from illegally sharing music? Will it encourage people to settle out of court? Will it inspire the technologically savvy to innovate, to find ever more secretive ways of distributing copyrighted music?

Reidenberg has studied peer-to-peer file sharing extensively, intrigued by the extent to which the technologists—software coders and users alike—are writing the rules of intellectual property law. These technologists may be democratizing access to music, but they might also be subverting a deeper democratic interest in protecting personal property. The visibility of file-sharing cases in the news “does not indicate that the whole world, or even all of America, is engaged in illicit music downloading,” Reidenberg said. Use of file-sharing programs is not so widespread as to constitute a popular mandate sufficient to topple the current copyright regime. According to a Pew Internet and American Life survey, a mere twenty-seven percent of Internet users actually download music—and some of them even do it legally,” Reidenberg added. “Not everyone is doing it.”

After threatening his audience that RIAA would be after them next, Reidenberg switched gears to discuss another intellectual property nightmare: the lack of personal data privacy in cyberspace.

Companies stockpile and sell sensitive information about their consumers. These databases of credit card numbers, zip codes, phone numbers, and product preferences quickly become hot commodities. Even the government will subscribe to these databases, using them to screen applicants for government benefits such as social security. Whatever their utility, these databases also open doors to identity theft, security breaches, and privacy invasions. What is even more scary, Reidenberg suggested, is that America has no specific statutory protection.

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*Certain restrictions apply; call for complete details.
by Sarah Fulton
Contributor

Here is an update of some things that YOUR Student Bar Association has been working on:

At the recent Town Hall meeting, complaints were raised about the William & Mary student health care system and communication from the financial aid office. SBA is currently working on introducing a bill to the Student Assembly and/or the Graduate Council to try to start an examination of these issues. If you have any comments, please e-mail Sarah Fulton (3L) at sarah.fulton@verizon.net.

Another topic of discussion at the Town Hall meeting was the appointment of law school senators to the Student Assembly. After securing our right to determine our method of selection, SBA wanted to address it with the student body. Because of the minimal attendance at the meeting, this seems to be a settled issue among the student body. The SBA sees that there are both positives and negatives to both appointment and election.

In finalizing of the issue, here are some quick bullet reasons for why we will continue to use appointment of law school senators:
- The law school senator plays a precarious role as both the law school voice in the Student Assembly as well as the voice of the SBA in regards to the budgeting process. This makes it imperative that the senator be able to work well with the SBA and understand the workings of all the law school organizations.
- SBA has a reporting requirement for the senators so that we can ensure that the senators are attending the meetings and because any Student Assembly decisions that would impact the law school would need to be communicated to the law school student government and any necessary implementation would be through the SBA. The appointment process aids in this relationship, as the senator understands his or her duty not only to the law school as a whole but also as an ex officio member of the SBA government.
- Senators for the undergraduate are determined by class (i.e., freshman senators, sophomore, etc.). The SBA sees the distinction between a 1L and a 3L. Because the law school receives only one voice in the Student Assembly, we believe it is important that the appointed senator take into account all of the different classes’ concerns. All of the SBA members, representing all of the three classes, are able to gauge their class’s respective concerns so as to make sure that the senator chosen is the one most able to represent a variety of views.
- The Student Assembly has a rule that a senator could be impeached following three missed meetings (meetings are once a week). Theoretically this could require continual re-votes by the law school, as we would not want to be without a voice in the Student Assembly; this could be very disruptive to the school.
- The SBA believes that it is important to provide leadership opportunities to all different types of students. Many students would not feel comfortable running in an election but would serve as insightful and effective leaders.

At a public reading held on campus on Oct. 23, Robbins read selections from The Betrayal Game, which will land on bookstore shelves in January, and a novel on Chernobyl that he is currently writing.

Robbins is the second William & Mary alumnus hired as a writer in residence since the English Department created the program in 1971. Schoenberger, who first came to William & Mary as a writer in residence in 1989, said that the fact that Robbins holds two degrees from the College is “an added bonus.”

Reminiscing about his Tribe years, Robbins said that although he only practiced law for 50 weeks after graduating from law school, he learned valuable critical thinking skills that have made his writing more technically grounded and his language more precise. He readily acknowledged, however, that his “creative bent” eventually led him to become a novelist.

“If I had to advise a young law student, I would say restrain your creative bent until you are on your own,” Robbins said.

Asked what advice he would give to aspiring fiction writers in general, Robbins compared the writing process to an isosceles triangle, with the wide base of the triangle formed by “hard work, repetition, and discovery of your own voice.”

“You can be an artist when you write but you have to be a technician when you edit,” Robbins said. As a teacher, Robbins has allocated less than one hour of class time to plot development, focusing instead on “craft” development. “Buried in every bit of successful artwork is immense levels of craft,” he said.

Furthing said that Robbins has succeeded in challenging students to discover their own voice and become more proficient writers. “I feel like he has improved my craft so much in so little time,” he said.

Overall, the SBA understands that there are only so many student governments that the average law school student can keep track of (or would care to). All of SBA is humbled that you have chosen us to lead, and we make every effort to do the best job we can. In appointing senators (pretty much immediately following our election—so your wishes are fresh in our minds), we again are working hard to make the absolute best choices that we can to take into account your many differing needs.

The SBA will have our annual meeting with the Deans soon. Please submit any and all questions, comments, and concerns to Wes Allen (3L) at wdalle@wm.edu. We promise you that we will address all concerns and provide you with responses as soon as possible.

Finally, . . . enjoy the rest of the semester! We have some fun ways to take a break coming up, including some student/faculty mixers, a powderpuff game, an SBA study break, a Grand Illumination party, and bar reviews.

The SBA Source
Look to this space each week for updates on law school happenings and politics

Alum Robbins Returns
Continued from Pg.5.

Several novels by Robbins have appeared on the New York Times bestseller lists, and his book War of the Rats was nominated for an Audie award. Robbins has traveled as far as Russia and Cuba while researching his novels, which include The Assassins Gallery, Last Citadel, and The End of War. He said that driving a truck across Europe in preparation for Liberation Road gave him crucial insight into the grueling side of war.

The $9,250 Song
Continued from Pg.8.

credit and debit cards. Consumers whose identities were stolen lost substantial sums of money. When financial institutions responsible for rectifying the consumer losses sued TJX, they had to shoehorn their case into a questionable, non-intuitive legal theory.

In the absence of regulations protecting data privacy, the banks had to argue that TJX engaged in “negligent misrepresentation” because the retailers failed to disclose that they had potential security problems.

“It’s a legal contortion,” Reidenberg said. “But we don’t have federal statutes that lay out basic security principals.”

Reidenberg favors the European attitude toward consumer protection. He has studied the European attitude extensively, relaying his findings to the House Subcommittee on Commerce, Trade, and Consumer Protection in March 2001.

In Europe, personal data security is considered an unwaivable human right. In accord with a 1995 directive of the European Union, companies that collect consumers’ personal data must keep their processes transparent or face sanctions. In contrast, personal data security in America is more like a political right, waivable and infrim. Consumer data is bought and sold with little oversight, leaving hapless individuals vulnerable to losses without proper recourse.

Reidenberg advocates passage of laws authorizing private rights of action and providing for statutory damages.

“In America, a drug abuser has more privacy rights than a web user,” Reidenberg warned.

SBA Source
W&M Orchesis presents ‘DANCEVENT’

by Jenny Kane
Arts Correspondent

Facts:
Last weekend on Nov. 1-3, the W&M ensemble Orchesis staged its annual fall “Dancevent” at Phi Beta Kappa Memorial Hall. The evening’s performance featured nine pieces choreographed by faculty members and seniors of the W&M Department of Theater, Speech, and Dance, including works by Leah Glenn, Denise Damon Wade, and Joan Gavaler.

While it would be impossible for me to give credit to every piece danced, overall the program was modern in its execution, though many of its thematic foundations and even choreography were adapted from traditional cultures as part of an anthropological effort toward dance preservation. Specifically, a trio of pieces—Bushasche Etude, Parsons Etude, and Rainbow Etude—originally commissioned by the American Dance Legacy Institute based at Brown University, aimed to provide their re-constructioners, dancers, and the audience with a new access to historical dance pieces rooted in movements and rhythms particularly from African and tribal dance.

In a similar vein, the show ended with a large set piece entitled “Re-Membering: The World is Made Daily in Our Hearts,” a tribute to Native American dance and storytelling, which featured live drumming and flute as well as spoken word and a traditional shawl dance. In addition to these slightly longer works, the evening’s performances also included two modern, solo pieces, “Lullaby” and “Loonatic”; a duet, “Gardens of Stone”; and the larger ensemble pieces, “Super (Tux+Collider)+Dancers,” which featured the dancers’ spontaneous, though coded, movement to the sound files of the SuperTux video game, would have been far more effective in my opinion without all the dancers collapsing to the “Game Over” screen appearing at its conclusion. Without a doubt, however, my favorite piece of the performance, “Dancevent” in the fall and “An Evening of Dance” in the spring (expected March 20-22, 2008). The company features student dancers and both faculty and student choreography. Orchesis states that its goal as an ensemble is to provide the college and local community with an opportunity to see consistently innovative and original dance.

Issue:
On the basis of the precedent set by the Orchesis “Dancevent,” should we all mark our calendars for the company’s spring performance?

Holding:
Yes. If you love to watch dance like I do, then I would deem the scope of Orchesis’ most recent performance broad enough to say their next show could probably be, albeit for some pieces more than others, worthwhile.

Reasoning:
All in all, even the cynical and skeptical amongst us would have to admit that “Dancevent” was an ambitious program. Just when I thought I had the overall sense of the performance figured out, some choice in dancer, choreography, lighting, or costume would surprise me for better, or for worse, but usually for better. While it was evident to me that the company clearly worked long and hard fine tuning the larger pieces of the evening, and in particular the final, Native American tribal dance, I found the company’s brightest moments to be those that were small and witty.

I especially enjoyed the choreography of Denise Damon Wade, who demonstrated her understanding of precision of movement, balance, and counter-balance in both the very intimate “Gardens of Stone” and “Speak Up, Speak Out.” I do not hesitate in warning you that these titles are an unnecessary distraction and for the most part merely compelled audience members to theorize connections and “get what it all meant” during intermission. At any rate, in an ensemble of dancers with what I would judge to be a variety of backgrounds and varying levels of experience, Wade produces eloquent dance even when relying upon occasionally inarticulate or stilted feet and bodies.

There were moments throughout the performance when what could have been a high moment of wit and innovation fell flat into cliché or came off, at least to me, as overly cutey. For example, the opening piece, “Super(Tux+Collider)+Dancers,” which featured the dancers’ spontaneous, though coded, movement to the sound files of the SuperTux video game, would have been far more effective in my opinion without all the dancers collapsing to the “Game Over” screen appearing at its conclusion. Without a doubt, however, my favorite piece of the performance, choreographed and performed by faculty member Joan Gavaler and titled, “Loonatic,” managed to find a middle ground, always clever and never cheesy. “Loonatic” plays with the foggy line that separates dance from performance art and movement-based theater, as Gavaler performs the solo piece partly to recorded laughter, partly to the sound of her own breathing and vocal reactions to the spotlights she seems to be fighting and her struggle with the wraps of fabric around her body she works to escape throughout the piece. In concept and execution, Loonatic is legitimately new to me, and a pleasure to watch. Let’s hope for more pieces born from its same kind of originality to appear on Orchesis’ spring program.
We Know What You Did Last Summer...

The movie reference may be outdated, but the Public Service Fund continues to support law students. 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.

My Summer at the Orlando Public Defender’s Office

by Leigh Wilson
Contributor

This past summer I spent six weeks interning at the Public Defender’s Office in Orlando, Fla. Working at the Public Defender’s Office was an enlightening experience, both legally and personally, as I was exposed to a variety of issues that I had never before encountered. I was very fortunate to have received PSF funding for the summer, which assisted me in helping indigent clients in need of legal counsel.

My summer began in a felony division at the downtown office, where I researched legal issues such as search and seizure, felony enhancement, constructive possession, and inmate privacy rights regarding HIV status. I composed legal memoranda on these topics and wrote motions for bond hearings based on clients’ individual financial situations. I also spent time in court observing legal proceedings including voir dire, motion hearings, arraignments, domestic violence proceedings, and felony and misdemeanor trials. This internship gave me valuable legal experience and also made me aware of the importance of protecting the constitutional rights of people who cannot afford legal representation.

I also spent time working with the early representation division at the Orange County jail, where I interviewed incarcerated clients with charges ranging from battery (domestic violence) to prostitution, theft, and drug possession. Many of these clients had issues that affected their cases, including mental health problems, drug/alcohol addictions and immigration holds. Although interviewing these clients alone in an interview booth—with the only supervision being video cameras that transmitted to nearby security guard stations—was intimidating at first, I soon found myself becoming increasingly concerned with the disparity in the criminal justice system. Many of these indigent clients I was interviewing had little or no access to drug rehabilitation facilities or mental health treatment due to the expense of these types of programs. They often spent weeks in jail for minor misdemeanor charges because they could not afford to pay bond before their court dates arrived.

During the summer I also attended a two-day criminal law conference, which had speakers on subjects such as attorney professionalism and client service. There were also speakers such as a man who had recently been exonerated through DNA evidence discovered by the Innocence Project after spending twenty years in prison for a double rape he did not commit. One of the defense attorneys from the Duke lacrosse case also spoke to us about prosecutorial misconduct and what can be done to ensure that the constitutional rights of criminal defendants are protected in situations such as this.

I really enjoyed the time I spent working at the Public Defender’s Office. This internship was a great educational experience and allowed me to learn about areas of criminal law with which I was not familiar. It was also a great way to serve the public, and I am glad to have had the opportunity to help indigent defendants.

My Summer at Oklahoma Indian Legal Services

by Maire Corcoran
Contributor

Having never been to Oklahoma, I had visions of a Grapes of Wrath-esque Dustbowl—hot, dry, and barren. Having never studied or encountered federal Indian law, I really had no idea what to expect, even after putting myself through a crash course before I arrived at my internship at Oklahoma Indian Legal Services (OILS), a legal aid organization servicing indigent tribal members in the state of Oklahoma and headquartered in Oklahoma City. Ultimately, I was surprised on both counts; Oklahoma, at least during the 2007 summer, was fairly lush and green as a result of an extremely unusual number of rainstorms. And federal Indian law, as well as the tribal court system and the problems dealt with by the various Oklahoma tribes, was nothing like I had expected.

Granted, the most in-depth experience I had with federal Indian law related to the Indian Child Welfare Act (ICWA), an act passed in response to the overwhelming number of Native children removed from their family home and placed in non-tribal environments. ICWA sets standards for when Indian children can be removed from their home and placed in an adoptive or foster care home, and also sets standards for the nature of that adoptive or foster care home. Tribes or the parents involved can request that an ICWA case be transferred to tribal court—which, as I observed, is frequently what the parents desire. OILS dealt with numerous ICWA cases, most often appointing one of the staff attorneys as a guardian ad litem for the child or children in question. This meant that I accompanied various OILS staff attorneys to numerous hearings in tribal court all across the state of Oklahoma. This also meant that I learned a tremendous amount about the disparity in the economic conditions of the various tribes. Some tribes are able to provide extremely efficient health and social services for their members and even run side enterprises—the Chickasaw Nation, for example, has a great chocolate factory—while other tribes struggle to even maintain their tribal buildings.

One summer working with OILS helped me realize how absolutely ignorant I was—and, really, still am—about Native culture, federal Indian law issues, and the tragic effect that decades of paternalistic and discriminatory governmental policy has had on tribes. Additionally, some of what I did learn is particular to Oklahoma tribes; I can only speculate about what life might be like on the Rosebud Sioux reservation in South Dakota or on the reservations in Arizona. I can, however, be satisfied with what I have come away from this summer: a little less ignorance and a lot more awareness about an area of the law and a set of cultures that I had never had any substantive experience with before.

Features
Letter to the Editors

Dear Editors,

David Bules has really gone under cover(s) to get the scoop on the 1L class. In his “Shug’s Night’s: Nonsense” last week, Bules imparted this lovely bit of wisdom about my female classmates: “1L girls have the uncanny ability to accost 3L guys who are wandering lonely at 4 a.m.” Wonderful, Mr. Honor Council. Tell me more about these 1L women who I thought were law students but who suddenly sound like hookers.

“You all know the famous line the 1L girls have repeatedly used on 3L guys this year. Don’t fall for it.” What is it? Oh, Mr. Collegiality Group Leader, don’t leave us hanging. Please go on.

The 1L girls will be “drinking themselves into a blur and then pulling the arm of a 3L guy to walk them home.” So that’s how it is. Pheew! There’s so little left for me to learn about women — just wait two years, watch ‘em all get drunk and let them beg me for sex because I’m a 3L guy.

Everything I need to know about my fellow 1Ls, I learned from David Bules. It seems there’s more to be honoring than wearing a black robe and a pink polo shirt. At least we’ll all have something to talk about at the next collegiality meeting.

Rob Poggenklass, 1L
Five More Things that Make Me Want to Put My Head in a Wood Chipper

by Rob Thomas
Features
Staff Writer

Per the request of the editorial staff and other parties who shall remain nameless, I’d like to begin this week’s article by extending my sincerest apologies to David Bules. I committed a nearly unforgivable journalistic faux pas by mistakenly substituting James “Jacksy” Billsborrow for Dave in my 3LT article, even though Jacksy had nothing to do with the Facebook group or its inception. I can barely fathom the embarrassment and outrage this must have caused, and I hope that I can redeem myself by continuing to adhere to the loftiest standards of journalistic integrity. And now, here’s a piece submitted to me by an “up-and-coming writer” and third-year law student, who’s asked to remain “anonymous” for the time being.

F up bros. There’s been some shiz going down at Marshall-Wythe lately that has really given me a rash. Don’t take whatever I say too seriously, but I do expect you to agree with me fully. If you don’t, you suck, and you were probably one of the kids who I used to beat the sh*t out of on a daily basis.

1. LLMs—I mean, seriously. These guys are atrocious and are just one example of why the United States needs to get out of the business of funding failed scholars from which ever inferior government-funded socialist “universities” they attend. They come over here from China or England or North Dakota, and totally take up seats that 22-year-old public state college graduates deserve. I’m definitely going to report them to the INS after exams. Asim Modi, you’re first on my list.

2. The 3L Features Staff—OK, we get it. You guys like to call attention to yourselves by ripping off “The Onion” wholesale and then bragging about how funny you are to impressionable 1L girls. You’re just making up for the fact that nobody reads your high school pieces about the substandard nutritional value of the cafeteria food or the attendance at the most recent JV cross country match. You didn’t get laid then, and I’m sure you’re not getting laid as much as me now.

3. The American Constitution Society—"Nuff said.

4. The Fact that Marshall-Wythe Has an International Human Rights Class, but No Class Discussing How Much Fox News Owns the Competition—This is total bullshit. It’s probably true that the legal profession is dominated by bleeding heart liberal elitist douche-nozzles. I’m basically digging myself into debt to listen to someone wax poetic about how terrorist detainees have “rights” and how Apartheid was like the worst thing in the world. Give me a break.

If Bill O’Reilly ran this school, we’d actually learn something important, like how awesome it would be if we had giant electric fence like the ones in Jurassic Park on the Mexican border, or how the gay marriage movement is really just a pretext for a concerted effort to demoralize our troops in Iraq. By supporting and endorsing such a biased legal curriculum, the powers that be at Marshall-Wythe simply give the terrorists more ammo. And, besides, those classes are just stupid.

5. Women and Minorities—Oh, you’ve historically suffered at the hands of the white male economic and political juggernaut? Boo P*cking hoo. Seriously, get over it. Do you know what would happen if I formed a White Law Students Association? I’d get crucified (mourn ya till I join ya, Jesus). I mean, dude, there’s no way the law school would ever fund such an organization, and that’s about as retarded as MoveOn.org. And ladies, I realize that you have “issues” roughly every four weeks, but I mean come on. Leave the borderline-Communist feminism back home, or at an Indigo Girls concert. Nobody wants to hear about it in criminal law during the Battered Woman Syndrome class. For real.

The views expressed in this column are not those of The Advocate, its staff, or Rob Thomas.

BLAWGS: PSF Halloween Winner Edition

by Asim Modi
Features Editor

To the relief of some but to the despair of many, Pee-Wee Herman has shut himself away from the public eye for the past decade or so. Of course, Pee-Wee (A.K.A. Paul Reubens) has made a guest appearance on TV here and there, but his heyday has passed, and the suits that control media in America have shown no desire to bring back this zany, manic, childlike, and sexually ambiguous comic genius. Bravo then to Rob Thomas (3L) for giving the students at William & Mary what they want by putting on a Pee-Wee portrayal of the ages. Thomas’s exploits at the PSF Halloween Party is what gets him into the paper, but it could be argued that his performance on Halloween night was more memorable (at least it was for me because that’s the only time I actually saw the get-up). BLAWGS might be a little shorter than usual this time around, but really, the pictures say much more than the man behind the costume ever could.

Thomas knew for quite some time that he had the potential to be an amazing Pee-Wee Herman. He had felt the spirit of Pee-Wee within him. Nothing dazzled him more than a light grey suit or a pair of pearly white shoes. The song, “Tequila” set his feet involuntarily in motion. The internal turmoil he felt inside of movie theaters was unimaginable. However, what really convinced him to turn his dream into reality was when he posted a picture of Pee-Wee on his Facebook wall and, according to Thomas, “At least five people thought that it was a picture of me!”

Thomas approached the task of assembling the costume with Hermanesque diligence. It took him three weeks, but Thomas was able to obtain the necessary parts (at his request, we have to make an Amazon.com shoutout). The kindness of strangers also helped Thomas in his quest. When getting a pre-costume haircut, Thomas’s stylist asked him why he kept on asking for more off. After telling her of his wish to look like Pee-Wee Herman, his hair specialist duly delivered.

The reaction to the costume was overwhelmingly positive. Thomas had found his validation through a crowd that urged him to express what he had always suppressed. One 2L screamed, “Dude, that costume is P*cking awesome! I can’t P*cking believe it!” Thomas respected his fans by granting their photo requests or their pleas to do the “Tequila” dance. Through it all, Thomas reminded himself of the dedication shown by Pee-Wee in his epic quest to reclaim his shiny red bicycle in Pee-Wee’s Big Adventure. To find the fulfillment he has always sought, Thomas showed the same kind of focus in his mission to shock, confuse, and bring joy to his peers.

Up-and-coming writer Rob Thomas (3L) is this year’s PSF winner.

Finally, the question you all wanted asked: “Rob Thomas, are you the master of your movie theater domain?” Thomas replied, “I constantly fought the urge to masturbate in a dark theater. It was all I could do to not abuse myself.”
Hope Mongering: Barack Obama Stirs Supporters with Promises of Change

by Alan Kennedy-Shaffer
Features Editor

A small but dedicated group of Barack Obama supporters piled into a car bound for Charlottesville late in the afternoon on Monday, Oct. 29, hoping to catch a glimpse of Sen. Barack Obama (D-Ill.) at the Pavilion. They got more than they bargained for when Obama gave one of the most decisive speeches heard in the current presidential campaign.

Evoking the scene from “Man of the Year” in which Robin Williams raps at a political rally, the “Countdown to Change” rally had all the trappings of a rock concert. Flashing lights swept the covered arena as speakers blasted Gnarls Barkley’s “Crazy.” Thousands of young people screamed in admiration when their hero emerged from the shadows with outstretched arms and pumping fists. And that was just the beginning.

Governor Tim Kaine introduced Obama by talking about the “need for positive change.” Kaine focused on Obama’s message that change is coming and that it will benefit America. “Obama stands for excellence and America’s ready for excellence again in the White House,” he said. “Obama is ready to send a message to the rest of the world that we are ready to reengage.”

Recognizing that Sen. Hillary Clinton (D-N.Y.) leads Obama and former senator John Edwards in the polls, Kaine also painted a picture of Obama as an underdog willing to go the distance needed to win. “Underdogs win races,” he said. “When you’re the underdog, you work harder, you work smarter.”

Facing a rowdy crowd excited about the prospect of electing a Democratic president who is not afraid to turn over the Monopoly game, if that is what it takes to bring the American Dream to all Americans, Obama said that the next president will need to have “courage and conviction” and “judgment and character.” Responding to Republican attacks, Obama called himself a “hope mongerer.” “I stand guilty as charged,” he said.

Because the next president will have a tough job of bringing the country together after eight years of divisive fear mongering by President George W. Bush, VP Dick Cheney, and Karl Rove, Obama talked about how his campaign has brought together blacks and whites, Christians and Jews, Democrats and…Independents. Although this comment evoked laughter, Obama was quick to point out that he has Republican supporters as well.

“I know there are Republicans [who support my campaign] because they whisper to me and [quietly] say, ‘Barack, I support you.’ I say, ‘Thank you. But why are we whispering?’” The former civil rights attorney also cracked up the crowd with his impersonation of former president Richard Nixon. Obama’s jokes about the recently discovered genetic connection to Cheney, however, brought down the house. “It doesn’t help when you put my cousin Dick Cheney in charge of energy policy,” he said. “You know what they say, ‘Everyone’s got a black sheep in the family.’”

Obama’s demeanor turned serious at times, particularly when he talked about what the next president will have to do to end the ravages of the Bush Administration and the corrupting influence of big money interests in politics. “We don’t need someone who knows how to play the game,” he said. “We need someone who’s going to put an end to game playing.” Vowing to battle special interests, Obama emphasized that “Congress should be accountable to you, not accountable to the lobbyists.”

Turning to the war in Iraq, Obama drew loud applause when he denounced the Bush Administration’s persistent disrespect for Constitutional rights and principles. “You’re tired of an Administration that treats the Constitution as an annoyance. Most of all, you’re tired of a war that should never have been authorized, that is costing us billions, and that is not making us safer,” he said. “Speaking more and more like Howard Dean, Obama called the Iraq War the “worst foreign policy disaster in a generation.”

“We need to end the war [and to] start bringing the troops home,” Obama declared, vigorously poking the air with his index finger. “It will be the first thing I do.” He reminded the audience of thousands that he spoke out the war before it began, at a time when his opponents were busy voting for it in the Senate. “Ten days before the vote to authorize the war in Iraq, I was invited to speak at an anti-war rally in Chicago,” he said. “I went to that rally and I spoke out against that war.”

Gathering momentum, Obama promised to combat AIDS in Africa, to stop the violence in Darfur, and to close the infamous military prison at Guantanamo Bay, Cuba. “We are not a nation that turns a blind eye to slaughter,” he said to cheers and shouts of support. “And while we are at it, we are going to close Guantanamo…because we are not a nation that looks people up without charging them.”

One of the only candidates to publicly speak out against the appointment of Michael Mukasey as Attorney General, Obama promised to put an end to warrantless wiretaps. Driving home his “hope mongering” theme, Obama repeated that he wants “no more politics of fear.”

“We need to break the fever of fear that has come to dominate our politics,” he said, comparing the Bush Administration’s frequent attempts to attack the patriotism of those who question the White House’s dubious policies to McCarthyism. We need to remember our nation’s “roots in liberty and democracy and rule of law,” he said, emphasizing that sometimes “righteous anger” leads to change.

“Change in America doesn’t happen from the top down, it happens from the bottom up,” said the underdog, striking a populist tone that put Obama more in line with Rep. Dennis Kucinich (D-Ohio) than Clinton.

“Are you fired up? Ready to go? Fired up? Ready to go?” Employing the call and response method, the rally ended as it began, with a rousing battle cry of “Obama.”

Barack Obama, surrounded by supporters, speaks at a recent rally in Charlottesville, Va. According to a news report, the rally drew 4,250 people and raised more than $300,000 for Obama’s campaign.

Photo by Alan Kennedy-Shaffer

Feature Editor