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The Advocate

VOLUME V, ISSUE NINE

WEDNESDAY, FEBRUARY 6, 2008

WILLIAM & MARY SCHOOL OF LAW

General Assembly Convenes in Colonial Capitol: Governor, Legislators Commemorate Virginia's Legislative Legacy

by Alan Kennedy-Shaffer
Features Editor

Editors Note: The following article was previously published in *The Virginia Gazette*.

Gov. Tim Kaine, first lady Anne Holton, Lt. Gov. Bill Bolling, scores of delegates, state senators, supreme court justices, and special guests crowded into the Colonial Capitol in Williamsburg on Saturday, Jan. 26 for the 24th joint session of the General Assembly. As the legislators passed through the red brick archway into the Hall of the House of Burgesses, ten fifers and drummers struck up a march, and tourists craned their necks to catch a glimpse of the festivities.

"By being here today, you acknowledge that history passed this way," said Colin G. Campbell, president and chairman of the Colonial Williamsburg Foundation, welcoming America's oldest deliberative body to the reconstructed Colonial Capitol.

The governor lauded the legislators for attending the General

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Gov. Kaine convened the General Assembly's commemorative session at the Colonial Capitol.

Photo by Alan Kennedy-Shaffer, Features Editor.

Voices Against the Death Penalty and for Criminal Justice Reform

by Kelly Pereira
Co-Editor-in-Chief

Imagine that you were wrongfully accused of a crime. Now imagine that you were wrongfully convicted of that crime and sentenced to death.

Impossible? Maybe not.

This is just what happened to Kirk Bloodsworth. Bloodsworth was the keynote speaker at the Death Penalty Symposium hosted by the Black Law Students Association and Students for the Innocence Project on

Jan. 28. Bloodsworth was the first person exonerated from death row by DNA evidence and now works for the Justice Project. Congress enacted the Bloodsworth Bill to fund the DNA testing of evidence post-conviction, but, according to Bloodsworth and other symposium participants, more needs to be done to prevent wrongful convictions.

On Aug. 9, 1984, Bloodsworth, an ex-Marine with no criminal history, was arrested at 2 a.m. Earlier that day, a nine-year-old girl had been found raped and murdered. She had been playing hide-and-seek with friends but could not find them. She asked two boys, aged eight and ten to help her find her friends, but they were too busy fishing. The boys, however, overheard and observed a man offer to help her find her friends. Three other witnesses observed the same man that morning, and Bloodsworth's neighbor tipped off the police that the resulting composite sketch that aired on the news matched him.

Bloodsworth was not the only suspect identified by called-in tips; there were at least four other suspects, but the police focused their investigation on him right away. The behavioral science unit had determined that, based on the nature and location of the crime, the perpetrator

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Judge Miller moderated the Death Penalty Symposium and shared his personal knowledge of the unreliability of eyewitness testimony.

Photo by Kelly Pereira Co-Editor-in-Chief.

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General Assembly in CW

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Assembly's commemorative session, saying that "these landmark moments and these traditions . . . inspire us." Kaine invoked the historical legacies of Patrick Henry, Thomas Jefferson, and George Washington, each of whom preached revolution from within the walls of the Colonial Capitol, encouraging the assembled senators and delegates to "marvel" at the traditions and ideals of these "ordinary people."

"The marvel isn't that great people can sometimes do petty things," said Kaine. "It is that ordinary people sometimes do marvelous things."

Michael Beschloss, a presidential historian whose wife is a trustee of Colonial Williamsburg, delivered the keynote address to the joint session, which "tells you almost everything you need to know" about the General Assembly's commitment to its historical beginnings.

"The highest compliment I can pay is to say there is no state in this country with as large a sense of history as Virginia," said Beschloss.

Citing Washington, Abraham Lincoln, and Harry Truman as Presidents who stood their ground in spite of heavy criticism from contemporaries, Beschloss lectured the legislators on political courage. The true legacy of a President, he said, can only be measured with the

"perspective" of time.

"Sometimes we forget the difference between history and current events," he said. "If you wait long enough, you are going to get all sorts of information about presidents and places like Colonial Williamsburg that do not come out in real time."

The General Assembly has convened periodically at the Colonial Capitol since its rededication in 1934, drawing on the fundamental principles of freedom and representative government that led Virginia to support independence in 1775 and to pass the Virginia Declaration of Rights in 1776. Members of all three branches of the state government attended the quadrennial event, including over 70 state senators and delegates.

And for the first time in 74 years, members of the public had the opportunity to watch the commemorative proceedings at Colonial Williamsburg's signature building via closed circuit television at the Bruton Heights School Educational Center.

Speaker William J. Howell (R-Stafford) of the House of Delegates said that he makes a point of regularly participating in the commemorative sessions in Williamsburg.

"This is about my fifth time," he said. "I always look forward to it. This is a very special place."

The Virginia State Capitol Police, the nation's oldest police force, secured the area in advance and provided uniformed protective services for Kaine, Bill Bolling, and the legislators who traveled from Richmond to Williamsburg for the



Members of the Virginia General Assembly proceed into the Colonial Capitol for their commemorative session flanked by fifers.

Photo by Alan Kennedy-Shaffer, Features Editor.

special session, said Capitol Police Chief Kimberly Lettner.

"Not only are we here to provide protective services, but it is an honor to be here," Lettner said. "It is just as commemorative for us as it is for the legislators."

Sen. Tommy Norment (R-James City), Del. William K. Barlow (D-Williamsburg), and Williamsburg City Council member Robert A.

Braxton were also in attendance at the General Assembly's 24th commemorative session at the Colonial Capitol.

More information about the Virginia General Assembly is available at <http://legis.state.va.us>. Colonial Williamsburg's website is <http://www.history.org>.

THE ADVOCATE

"Complete and objective reporting of student news and opinion"

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Environmental Law Society

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ELPR Symposium Explores the Future of Carbon Emissions

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

Law students, undergraduate students, faculty, and Williamsburg residents gathered in Courtroom 21 on Feb. 2 to ponder the future of carbon emissions in the wake of *Massachusetts v. EPA* at the William & Mary Environmental Law and Policy Review's annual symposium.

This year's symposium, entitled "Emission Not Accomplished: The Future of Carbon Emissions in a Changing World," brought nine speakers together from various fields to discuss how to properly reduce carbon emissions. The group included professors, advocates from non-governmental organizations, government employees, an engineer, and a corporate CEO.

William & Mary law professor Ronald Rosenberg opened the symposium by introducing the topic of carbon emissions and the prospects of renewable energy.

Professor Randall Abate of Florida Coastal School of Law began the official part of the program by giving an overview of the case that inspired the symposium, *Massachusetts v. EPA*. The Supreme Court handed down this 5-4 decision in April 2007, finding that the EPA had the authority to regulate carbon dioxide as a pollutant and is required to review its rationale for not regulating carbon dioxide. Several U.S. cities, states, and non-governmental organizations brought suit in this case to force

the EPA to regulate carbon dioxide. Specifically, Abate explored the issue of environmental standing and its future impact on environmental litigation.

Professor Andrew Long, of the University of Louisville Brandeis School of Law, followed in the program and discussed the effect of international environmental standards on U.S. regulation, policy, and litigation. He noted that although *Massachusetts v. EPA* did not specifically point to international norms, its recognition of the global effects of climate change implies an acknowledgment of international law.

Professor Wiener of Duke Law School was unable to be physically present at the symposium; however, thanks to the magic of Courtroom 21, he was able to make a video conference appearance. He continued the theme of Professor Long's talk and discussed the need for an international initiative to reduce carbon emissions.

Diane Kearney, an operations research analyst with the Office of Integrated Analysis and Forecasting of the Energy Information Administration, focused on domestic legislation. She conveyed various statistics about compliance and reduction of carbon emissions that would be seen as a result of three different legislative bills.

Dr. Alan Carlin, an economist from the Environmental Protection Agency, offered his insight into

providing a cost effective solution to the problem of global warming. He claims that a cap and trade system for carbon emissions is an unworkable regime. He advocates for the use of Solar Radiation Management. In short, he proposes to release particles into the atmosphere that would reflect the sun's radiation, thus cooling the Earth. However, no money has been spent to date to explore this option.

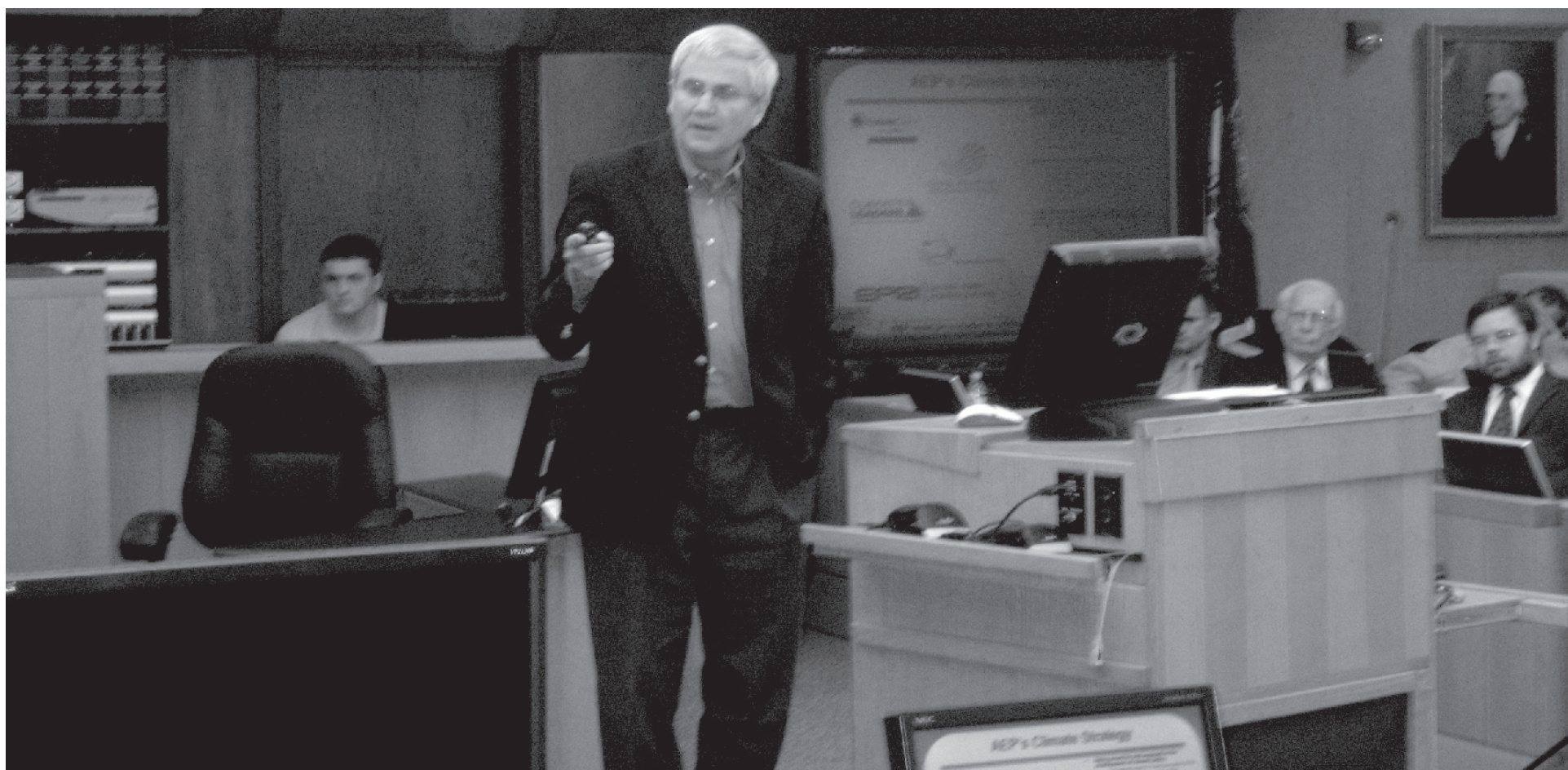
Dr. Benjamin Sovacool, of the Energy Governance Program at the Centre on Asia and Globalization, flew in from Singapore to discuss renewable portfolio standards (RPS) with his colleague Chris Cooper of the Network for New Energy Choices. Together they explained that an RPS is simply a legal requirement for utilities to generate a certain amount of energy from renewable sources. Over the past 10 years Sovacool, Cooper, and others have advocated for a federal RPS. In that decade a bill containing an RPS provision has been presented to Congress seventeen times. It has failed 17 times. Most recently, the eighteenth time was not a charm. House speaker Nancy Pelosi scrapped an RPS provision in favor of emission standards for automobiles. Sovacool and Cooper argue that the only way to meaningfully affect carbon emissions is to target the production of electricity. They moved on to discuss renewable energy sources, such as wind power.

William L. Sigmon, Jr., the Senior Vice President of Engineering, Proj-

ects, and Field Services for American Electric Power (AEP), told the story of renewable and alternative energy from the industry perspective. He summarized the efforts taken by AEP in reducing their carbon emissions. He, unlike Cooper and Sovacool, does not think the answer lies in renewable energy. He believes the solution is in clean-burning coal and carbon capture. However, he acknowledged that wind power is a fundamental piece of an organization's RPS.

Mark A. Shmorhun, Vice President of Business Development for Delta-T Corporation, continued the discussion about alternative energy sources. His company is an engineering firm focused exclusively on the construction of ethanol plants. He opened by dispelling the myth that it takes more energy to produce ethanol than it creates, calling this claim "bullsh*t." He says this was true 10 years ago, but that today there is a 36,000 btu net energy gain per gallon of ethanol produced. In addition, he pointed out that ethanol is only a stepping stone in moving towards producing energy from starches. He claims that cellulose is the next step.

Dr. Sovacool returned to close out the day with a discussion of oil dependence and the effect that plug-in hybrid electric cars can have on it. This discussion prompted one student to ask, "Can I reduce carbon emissions without buying a Prius?"



William L. Sigmon, Jr. of American Electric Power highlighted the steps which his company is taking to institute alternative and renewable energy sources at the ELPR symposium on Feb. 2.

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

'Nothing About Us Without Us': W&M's Stein Discusses Role in International Disability Rights Advocacy

by Abby Murchison
Assistant News Editor

International disability rights advocacy was the subject of Prof. Michael Stein's speech at an ACS-sponsored luncheon on Jan. 31.

Prof. Stein discussed his role drafting and implementing the United Nations treaty to protect the rights of the estimated 650 million disabled people in the world, roughly 10 percent of the global population.

The U.N. has long championed the human rights of those who face discrimination—women, immigrants, indigenous populations. However, no U.N. human rights document mentioned disabled persons as a protected class with equal rights. With this treaty, Prof. Stein said, the U.N. finally addressed head-on the cause of world's largest minority.

After six years of negotiations, the treaty was unanimously adopted by the U.N. General Assembly in Dec. 2006. Although it cannot take effect until ratified by 20 nations, the treaty reflects a growing international commitment to "protecting the inherent dignity and rights of persons with disabilities," said Prof. Stein.

Though Prof. Stein has long been

an advocate for disabilities rights, his international focus is of a more recent vintage. Frustrated by the limits of the Americans with Disabilities Act (ADA) and by the conservative bent of the federal judiciary, Prof. Stein decided to direct his advocacy efforts abroad.

Prof. Stein described how, throughout the world, disabled persons' opportunities are limited: they are excluded from employment, health care, education, transportation, equal protection of the law—or they are simply locked away and forgotten. "The problems are especially pronounced in the developing world where, for example, over 80 percent of disabled children do not go to school," he said.

The U.N. treaty aims to overcome the marginalization of disabled persons throughout the world. It aims to protect them from physical, social, and economic harms, "to extend to them the rights that all humans should be able to enjoy," Prof. Stein said.

Prof. Stein shared stories from his involvement in the U.N. negotiations in New York.

For the first time in the history of U.N. human rights conventions, members of the affected group were



Professor Michael Stein.
Photo courtesy of W&M website.

involved in negotiations. "Unlike the U.N. treaty for the protection of indigenous peoples, the affected individuals were right there at the table, making decisions," Prof. Stein said.

"Nothing about us without us," was the motto adopted by the Disabled Persons Organizations (DPOs) involved in this revolutionary and precedent-setting time for the U.N.

Also notable about the drafting process was the conspicuous absence of American support. Despite the country's 15 years of experience implementing ADA, the U.S. announced from the outset that it would not sign a treaty. As Prof. Stein pointed out, the U.S. takes the position that it "doesn't do treaties." Furthermore, the U.S. was concerned that the treaty would not provide the full range of rights available under ADA. Nonetheless, "the U.S. missed an opportunity to endorse the cause," Prof. Stein said.

Ultimately, the U.S. did send a delegation, but not until the seventh of eight Ad Hoc sessions, and under the leadership of an attorney who had little experience in disability law. Still, at least near the end of the process, the U.S. offered technical support and advice.

The U.S. delegation also helped shape the final language, focusing on the concept that disabled persons should be able to live independently in the community, have freedom to found a family life, and have equal access to health care, employment, education and justice.

The treaty sets out nations' obligations to promote and protect rights, to end discrimination, and "to create enabling environments so that people with disabilities can be fully integrated into community life," Prof. Stein said.

Prof. Stein said that the treaty will help disability activists demand change. It will help turn fractured legislative regimes into comprehensive rights packages. "The treaty announces ideological goals, but also provides the nuts-and-bolts measures for advancing them," he said.

Since drafting the treaty, Prof. Stein has been involved in its international implementation. He has traveled to places such as Korea and South Africa, where human rights violations are rampant to begin with—and thus where disabled persons sometimes suffer the most.

In Korea, advocacy groups for disabled persons are active. "They close down highways, have starvation protests, all to lobby for change," Prof. Stein said. In America, activism is not so visible. Nonetheless, the marginalization of disabled persons in Korea is entrenched; barriers to full engagement in the community seem impermeable. Prof. Stein remembers discussing employment opportunities with a wheelchair-bound university student in Korea. "The student said, 'Why would anyone want to hire me?'"

The Korean student "had no sense of his self-worth or his important role in society," Prof. Stein said.

As they talked, Prof. Stein offered the student a clear affirmation of his rights and of his potential—affirmations which opened the student's eyes, affirmations he planned to "share with others."

Thus, with education, dialogue and the anticipated passage of a legally-binding U.N. treaty, international advocacy for disabled persons can substantially reform global society, Prof. Stein said.

On Dec. 3, 2007, in observance of the International Day of Disabled Persons, U.N. Secretary-General Ban Ki-Moon delivered a message summing up the spirit of the treaty: "Let us reaffirm our commitment to seeking equal rights for all, and let us pledge to ensure the full participation of persons with disabilities in the lives of their communities."

Calling all 3Ls...

Start combing through your photo albums!

The Advocate will be publishing a full color photo collage in this year's final issue.

Think about what legacy you want to leave behind. This year we will be publishing 3L wills, high school year book style!

Call your parents...

And let them know that they will soon be receiving forms to submit their photos and wishes for their graduate. Break out the baby pictures!

Please send photos and wills to
TheAdvocateWM@gmail.com

Have your legacy preserved in print!

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 email TheAdvocateWM@gmail.com.

Wednesday, Feb. 6

Micro Mash Table Day

In the law school lobby from 8:30 a.m. to 4 p.m. For more information contact Satya Baumgartel.

ILS Chinese New Year Bake Sale

In the law school lobby from 8:30 a.m. to 4 p.m. For more information contact Satya Baumgartel.

Federalist Society guest speaker, Alan Gura

Alan Gura, lead counsel for the plaintiffs who successfully challenged Washington D.C.'s handgun ban, will address our chapter. In room 127 from 1 to 1:50 p.m. For more information contact Will Sleeth, wwslee@wm.edu.

Thursday, Feb. 7

Lunch with Lawyers: Prosecution Careers

In room 133 from 12:50 to 1:50 p.m. Contact Dean Ramona Sein, rjsein@wm.edu, for more information.

W&M Law School VA Bar Review Course Informational Meeting

Come view a sample of outlines to be used in the Law School's Virginia Bar Review class and ask questions about the new program. In Room 119 from 1 to 1:50 p.m. Contact Prof. Greg Baker, dgbake@wm.edu, for more information.

Gregg Brazinsky of the Elliott School of International Affairs, GWU, lecture.

The title of the talk is "Nation Building in South Korea: The Relevance and Irrelevance of America's Historical Experiences in Building Democracies." It is based on his new book "Nation Building in South Korea: Koreans, Americans, and the Making of a Democracy." In Morton Hall, room 20, at 4:30 p.m. Contact hxkita@wm.edu for more information.

Friday, Feb. 8

IBRL Conference on "Citizen Lawyer"

This conference will critically examine the "citizen lawyer" idea. Even the definition of the citizen lawyer can be a broadly debated thing. Some would say the citizen lawyer is the lawyer who serves in government or specifically in

public office. Some focus on the pro bono aspect, identifying the citizen lawyer as one who does public service of a wide variety. Some, holding the broadest view would say that all lawyers are citizen lawyers, serving as they do a critical role in the justice system or the economic life of the country. In Room 127 from 10:30 a.m. to 4:30 p.m. Contact Melody Nichols, msnich@wm.edu, for more information.

African Culture Night

An annual event highlighting the diverse cultures represented throughout the continent of Africa. Sponsored by the African Cultural Society. In the University Center Tidewater room at 8 p.m. Tickets are \$5, and the event is open to the public. For information, e-mail ixdele@wm.edu.

Saturday, Feb. 9

PSF Date Auction

The fun starts at 8 p.m. in Trinkle Hall in the Campus Center (the same place where 100 Nights was held). Contact Jennie Cordis, jgcord@wm.edu, for more information.

IBRL Conference on "Citizen Lawyer"

See above. In room 127 from 9:30 to 11:15 a.m. Contact Melody Nichols, msnich@wm.edu, for more information.

Charter Day

James B. Comey '82, former U.S. Deputy Attorney General, will be the keynote speaker. Honorary degrees will be awarded to Harriet Mayor Fulbright, president of the J. William & Harriet Fulbright Center, and James C. Rees '74, executive director of George Washington's Mount Vernon. Charter Day 2008 marks the 315th anniversary of the founding of the College by royal charter from King William III and Queen Mary II of Great Britain. Admission by ticket. Call 221-1312. For more information, see <http://www.wm.edu/news/?id=8594>. Starting at 10 a.m. in Phi Beta Kappa Memorial Hall on James-town Road.

Feb. 11 - 15

Benjamin Rush Symposium
Every day this week come to

room 119 from 1 to 1:50 p.m. to hear a different student present their paper on an aspect of health law. Contact Donald Tortorice, datort@wm.edu, for more information.

Monday, Feb. 11

Alveda King Speaks on the Right to Life

Dr. Alveda King continues the discussion on civil rights issues. King is the daughter of slain civil rights activist Rev. A.D. King, and niece of Martin Luther King, Jr. Do not miss what Dr. King, feminist and pro-life advocate, has to say regarding the future of the unborn.

King received her Doctorate of Laws from Saint Anslem College. She has served on the boards and committees of numerous organizations, including Silent No More Awareness Campaign, Coalition of African American Pastors, and the Judeo-Christian Coalition for Constitutional Restoration. She also served in the Georgia State House of Representatives. 8 p.m. in the University Center. For more information contact mahutc@wm.edu.

Tuesday, Feb. 12

BAR/BRI Table Day

Stop by to sign up for Bar/Bri, ask questions about the impending bar, or just pick up some highlighters and candy! In the law school lobby from 9:30 am to 3:30 p.m. Contact Megan Alexander, mealex@wm.edu, for more information.

JAG Day

In room 141 from 1 to 2 p.m. Contact Alana Seifts for more information.

SBA/Children's Advocacy Society Student/Faculty Mixer

In the Law School lobby from 4 to 7 p.m. Contact Kaila Gregory, kmgreg@wm.edu, for more information.

Wednesday, Feb. 13

Major General Charles Dunlap, guest speaker for Human Rights Series

Come hear Major Gen. Dunlap lecture about "National Security Law in the 21st Century: A Practitioner's View". In room 127 at 5 p.m. Contact Prof. Linda Malone,

lamalo@wm.edu, for more information.

Thursday, Feb. 14

Lunch with Lawyers: Careers in Criminal Defense - sponsored by OCS

In room 133 from 12:50 to 1:50 p.m. Contact Dean Judy Corello, jacore@wm.edu, for more information.

Friday, Feb. 15

Public Interest and Government Job Fair

At University of Richmond Law School from 1:00 - 1:50 p.m. Contact Dean Ramona Sein for more information.

Tuesday, Feb. 19

The View from the Bench: Post-Graduate Judicial Clerkships for 2Ls - sponsored by OCS

In Room 119 from 12:50 to 1:50 p.m. Contact Dean Rob Kaplan, rekapl@wm.edu, for more information.

BAR/BRI Table Day

Stop by to sign up for Bar/Bri, ask questions about the impending bar, or just pick up some highlighters and candy! In the law school lobby from 9:30 am to 3:30 p.m. Contact Megan Alexander, mealex@wm.edu, for more information.

Wednesday, Feb. 20

Federalist Society guest speaker, Ed Whelan

Ed Whelan, President of the Ethics and Public Policy Center, will speak to our chapter on the judicial confirmation process. In room 127 from 1 to 1:50 p.m. Contact Will Sleeth, wwslee@wm.edu, for more information.

International Law Society Social Event - Foods from Around the World

In the law school lobby from 5:30 to 7:30 p.m. Contact Ima Basse, icbass@wm.edu, for more information.

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

Death Penalty Symposium

Continued from Pg. 1.

was a man who loved the water and had a domineering, older woman in his life (either a wife or a mother). This profile fit Bloodsworth, who was a commercial fisherman and recently separated from his older wife.

The unit also maintained that evidence from the crime would produce a strong, possibly violent, reaction by the perpetrator, so police placed a rock (similar to the murder weapon) and child's underpants in the interrogation room with Bloodsworth. Bloodsworth did not have a reaction, but his conviction later rested in part on his allegedly saying "I did a terrible thing" and partly identifying the murder weapon.

There were inconsistencies between the physical description of the suspect and Bloodsworth, such as the fact that Bloodsworth is only 6' tall and the young witnesses described the suspect as 6'5" (the height of one of the witnesses' uncles). Bloodsworth was also not identified by the two boys in a lineup until after two weeks of extensive news coverage of the crime, and even then the two boys were in the same room together during the identification. Yet, it took a jury only two hours to convict Bloodsworth.

Bloodsworth found himself on death row for two years, but he appealed his conviction based on the failure of the prosecution to produce exculpatory evidence consistent with *Brady v. Maryland*, 373 U.S. 83 (1963). Some of the exculpatory evidence that did not reach the first jury

included the other known suspects as well as the fact that a composite sketch was thrown out because it did not match that produced from the questioning of the two young witnesses. Bloodsworth's conviction was overturned, but a second jury again found him guilty. This time Bloodsworth was sentenced to life in prison.

Bloodsworth found prison conditions deplorable and started to give up hope, but he found refuge in books. He served as a prison librarian for seven and a half years. In 1992, he stumbled across *The Blooding*, a book about how genetic fingerprinting solved an English crime. He immediately contacted his lawyer, demanding that DNA testing be conducted. It was an uphill battle because then only a few labs in the United States did post-conviction DNA testing, and he was initially told that the evidence from his case had been "inadvertently destroyed." Persistence paid off when a clerk revealed that the evidence had been misplaced—in the judge's closet, although sadly Bloodsworth's mother passed away before the DNA results were revealed.

The DNA results and retest results both exonerated Bloodsworth, and he was released in 1993 after almost nine years in prison. Yet, prosecutors gave a public statement saying that Bloodsworth was not necessarily innocent—he could have committed the crime with an accomplice, "the anonymous co-ejaculator." Bloodsworth received a pardon from the governor, and a \$30,000 settlement from the state.

Bloodsworth pressed for the state



Demar Alley (3L) speaks with Justice Project President John Terzano. Photo by Shalanda Franklin, Contributor.

to test the DNA evidence against the DNA databank, but he met with resistance. It was not until 2003 that the evidence was tested again, and it yielded a cold hit of one of the original suspects in the case, who committed crimes both prior to and following the 1984 rape and murder. That man pled guilty in 2004.

Bloodsworth closed his remarks in saying that 14 death row convictions have been overturned by DNA evidence. The Bloodsworth Bill is a good starting point for change, but the public needs to pressure the DOJ to actually use the \$14 million in funding to test evidence. The public also needs to be aware that wrongful convictions do occur, and there is need of reform of the criminal justice system. Bloodsworth said that regardless of the adversarial system, "you can't be adversarial to the truth."

John Terzano, President of the

Justice Project, remarked that there have been a total of 126 Americans exonerated by DNA evidence, yet two thirds of Americans support the death penalty, and that number has been relatively consistent throughout the past 70 years. The innocence cases, the science of DNA evidence, and "unusual voices" advocating change, including conservatives and former judges and prosecutors, all speak to the need for change. "We're not doing the postmortem on these wrongful convictions to find out what we are doing wrong," said Terzano. Terzano noted that in Virginia, there is no automatic preservation of post-conviction evidence.

The Justice Project advocates the following reforms: improvement of eyewitness identification procedures, expansion of post-conviction DNA testing, improvement of forensic evidence-testing procedures, improvement of standards for admissibility of accomplice and snitch testimony, assurance of proper safeguards against prosecutorial misconduct, expansion of discovery in criminal cases, electronic recording of custodial interrogations, and standards for the appointment and performance of counsel in capital cases. For more on the Justice Project, visit www.thejusticeproject.org or speak with Whitney Price (1L) who worked there.

75 percent of wrongful convictions are based on faulty eye witness testimony. The symposium's moderator, Judge Tommy Miller, shared that early into his career as a prosecutor he convicted a man whose innocence was later proven. From that day forward, he never prosecuted anyone based on eyewitness identification alone.



Law students pose with exoneree Kirk Bloodsworth.

Photo by Shalanda Franklin, Contributor.

What to Learn from Healing 'The Troubles'

by Rob Poggenklass
News Editor

It's the 21st century, but the story is hardly new. Two peoples, separated by a common religion, have been sparring with one another in a bloody cycle of violence for nearly a half-century. The United States has intervened, thanks in large part to a powerful lobby in this country—sons, daughters, and grandchildren of the Homeland across the Atlantic. The Bush Administration sends public officials abroad to bring the two sides together, resolve the tension, and come home.

Except in this instance, it worked.

Ambassador Mitchell Reiss, the President's Special Envoy for Northern Ireland and a professor of law at Marshall-Wythe, spoke for the first time about his experiences as a leader in the Northern Ireland peace process on Jan. 31, to a crowd of about 60 people.

A power-sharing agreement between rival Protestant and Catholic political parties was ratified by the British Parliament last year. The accord came nine years after the Good Friday Agreement brokered by retired U.S. Senator George Mitchell, and after more than 3,200 deaths in the last 40 years.

"Northern Ireland now serves as a beacon of hope," Reiss said. "Are any lessons transferrable? Can Northern Ireland serve as a model for the peaceful resolution of other disputes?"

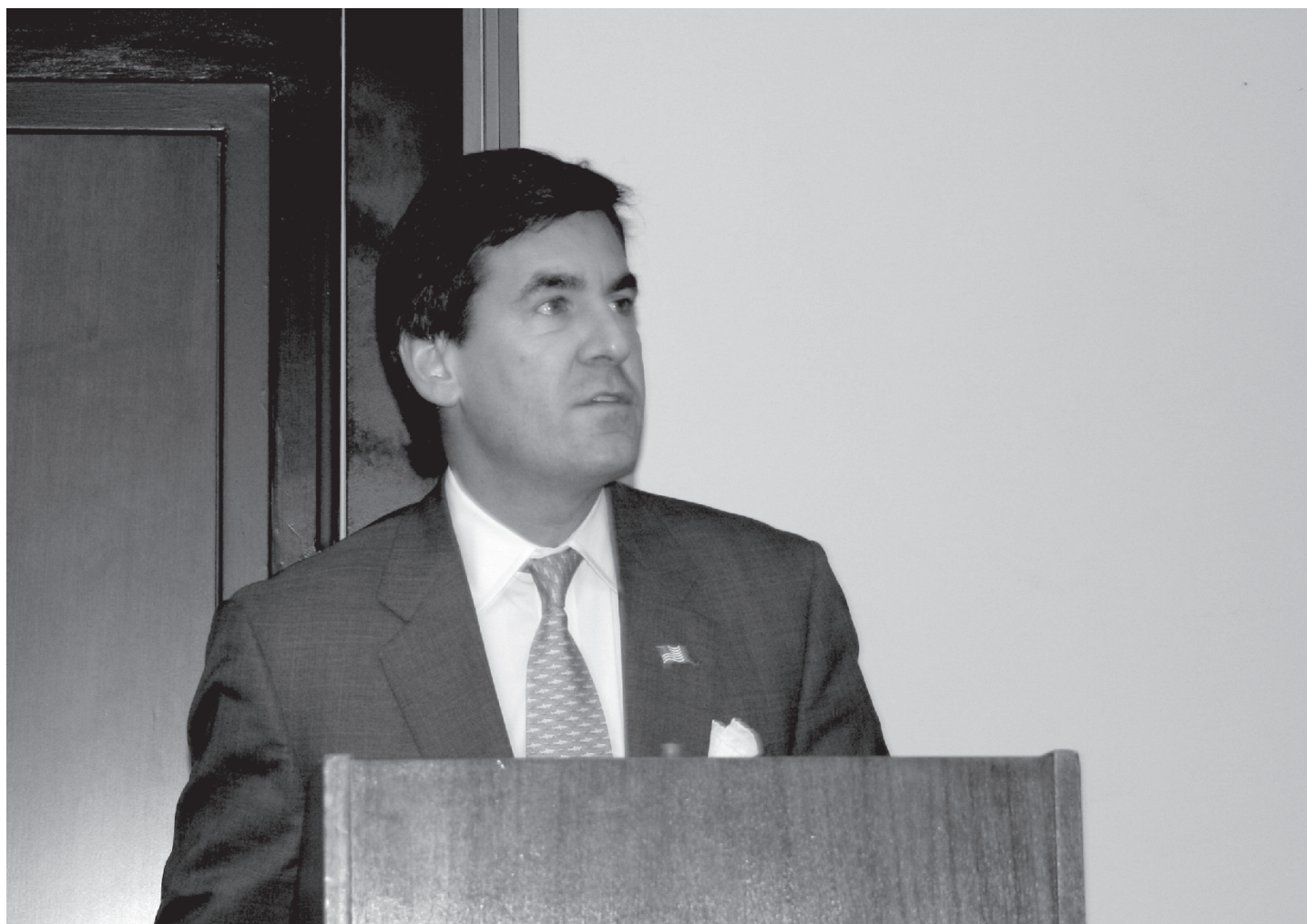
Reiss outlined six major lessons to take from healing "The Troubles," the name locals have given the conflict between Protestants and Catholics in Northern Ireland.

First, he said, the state must defend itself at all costs. "Once a terrorist campaign is launched, a state must defend itself and show it is willing to sustain this policy over a period of years. Without that stamina, the state would cease to exist," Reiss said.

Second, military operations will not suffice—they must be accompanied by a political strategy.

"All sides must have a stake in a peaceful outcome," Reiss said. He spoke of "winning hearts and minds," a familiar phrase to followers of the war in Iraq. London had to establish civil rights for Catholics before there could be peace in Northern Ireland, he said.

But that second point comes with a caveat, which is Reiss's third point:



Ambassador Mitchell Reiss, W&M Professor of Law and a former special envoy to Northern Ireland, speaks about his experiences with the peace process at the law school on Jan. 31.

"No government can and should pursue a political solution without a reliable partner for peace," he said. Often this can be difficult, especially when the opposition is perceived by many as a terrorist organization. For many years, this was the case with the Irish Republican Army (IRA). That's why the British government, Reiss said, was forced to send helicopters at night to pick up members of the IRA. The British met with the IRA leaders at night and returned them by helicopters before dawn, he said.

This process of negotiating behind the scenes gave way to another of Reiss's key points: constructive ambiguity. One of the major turning points in the Northern Ireland peace process, he said, was the construction of Sinn Fein as the "political wing" of the IRA. Led by Gerry Adams, Sinn Fein suddenly had license to deal with the enemy, even if the IRA continued its violence. This construction is exemplified by the acronym "TUAS," first circulated by IRA leadership in a 1994 document. Depending on who was viewing the document, the acronym either stood for "Totally UnArmed Strategy" or "Tactical Use of the Armed Struggle."

Reiss said there must be unity among stakeholders. "The prospect of peace reduces the tolerance for violence," he said.

Finally, Reiss talked extensively about the role of outside parties in the peace process. The United Kingdom

asked the U.S. to get involved. Reiss credits former President Bill Clinton with raising the profile of Sinn Fein. He also praised the efforts of Mitchell, who brokered the 1998 deal that gave Northern Ireland the choice of staying with the U.K. or reuniting with the Republic of Ireland—an option it may yet exercise. Reiss also complimented Senator Ted Kennedy and Senator John McCain, who criticized the IRA, even to the point of publicly

Photo by Whitney Weatherly, Staff Photographer. embarrassing Gerry Adams.

Even Reiss himself got into the act, saying that "It's time for the IRA to go out of business." He did not realize it was the first time a U.S. official had said such a thing until his remarks appeared on the notable quotes page of *Newsweek*.

Perhaps most of all, Reiss heaped praise on former British Prime Min-

Continued on Pg. 9.

Election Law Society's 2nd Annual Symposium

The Election Law Society will hold its 2nd Annual Symposium about the presidential selection process.

The event will be moderated by Professor Davison Douglas. Please join us for the reception in the lobby following the Symposium.

When: Thursday, Feb. 21, 3:30-5 p.m.

Where: Room 120

**For more information contact Kevin Pickens,
kapickens@wm.edu**

Road to Richmond: W&M Students Lobby Legislature for More Money

by Alan Kennedy-Shaffer
Features Editor

There is a kinship between the governor and the legislature and the students, William & Mary President Gene R. Nichol said to an assembly of newly minted lobbyists, now mingled with legislators, over breakfast Jan. 22 in the State Library in Richmond. "I know that everyone in this room is committed to higher education, and I know from the stickers on your lapels that everyone is committed to the College of William & Mary."

Two hours earlier, at 6 a.m., the great hall had been dark, waiting nervously for William & Mary to arrive. Frost smudges stuck on the windowpanes as twin buses pulled away from the curb of the University Center Tuesday morning bound for Richmond. While other students were busy pushing the snooze button in order to sneak a few more minutes of sleep, five dozen students had found seats on red and black chartered city buses.

Like a cadre of young legislators on their way to orientation, the students were perky and upbeat, dressed in their best suits and polished shoes. They were eager to talk about professors and politics, eager to meet the men and women who pull the purse strings of the state government, and eager to press the College's case in the state capital. And they knew their mission, a mission which organizer Seth Levey ('08) said was "to convey to the legislators how important higher education—and particularly William & Mary—is to the Commonwealth."

Now the walls echoed with Nichol's words of thanks to Gov. Tim Kaine and to state Sen. Thomas K. Norment (R-James City) for their continued support of the College. Last month, Kaine introduced bond proposals that would fully fund a new School of Education and a significant amount of the third phase of a planned Integrated Science Center. Although unhappy about the prospects of a possible six percent state budget reduction and a delay in raises for faculty and staff in addition to a prolonged salary freeze, Nichol held out hope for a "small college in Tidewater Virginia" that produces more Peace Corps and Fulbright Scholars, per capita, than any other university. "This is a gem virtually unparalleled," he said, and saluted



W&M President Gene Nichol addresses a crowd at the State Library in Richmond on Jan. 22.

Photo by Alan Kennedy-Shaffer, Features Editor.

the lobbyists for a day.

Del. Dave Marsden (D-Burke), whose sister graduated in green and gold, attends the "Road to Richmond" lobbying breakfast regularly. He smiled as he shook Nichol's hand. "This is an event I come to every year," he said. "Virginia's greatest economic advantage is its higher education system, and William & Mary is arguably our flagship."

After breakfast, Marsden would meet with a group of student lobbyists in his office, listening to their passionate pleas for more funding for faculty raises and much-needed construction projects. He would listen patiently to Lesley Boswell ('08) tell him—as only a wide-eyed undergraduate lobbyist can—that "we do so much with so little. . . . Higher education is something that keeps giving back," said Boswell, and the delegate agreed.

State Sen. John Edwards (D-Roanoke) recalled a Tribe friend in a lively conversation with Alan Meese, the Ball Professor of Law and President of the Faculty Assembly, "I've always been very fond, very proud of William & Mary," said Edwards. "An older William & Mary pole vaulter, Ron Henry [and I] used to work out together and he taught me how to do pole vaulting." Meese nodded, his eyes twinkling. He would be teaching a class at Marshall-Wythe in an hour but seemed perfectly content to listen to Edwards reminisce for a while about Williamsburg's "terrific school" and its "beautiful campus."

Emily McMillen ('11) and Ali Cano ('11) watched with wonderment as administrators, professors, and students swirled around the coffee table, still somewhat new to the College but determined to lend a helping hand. "At this point in time, it is the money that we need to make William & Mary even better," McMillen said. Cano jumped in to support her friend, explaining that her

commitment to her fellow students, and future students, led her to travel to the state capital before sunrise. "I know that education is a priority," she said, "and I thought it was important for us to come out early because we benefit from everything [the "Road to Richmond" student lobbying trip] does."

During the short walk from the State Library to the General Assembly building, which stands within throwing distance of the newly renovated Capitol, students discussed their talking points and swapped statistics in preparation for their personal visits to the offices of key delegates and senators. The focus for the day was informing the elected leaders of the importance of the College's critical capital projects such as the School of Education and Integrated Science Center, funding for efforts such as undergraduate research and student financial aid, as well as the importance of providing competitive salaries to retain the nation's top faculty and staff. As they ventured on in Richmond, the students remembered Nichol's message that "we like having you [in Richmond once a year because] you have a stake in this which is very powerful." "[The legislators] think, presumptively, very highly of you," he had told many of the students the evening before. "They think you're very smart; they think you go to a terrific place; they think you go to a place they want their kids to go to."

When asked why he had decided to spend his morning in Richmond looking for receptive members of the General Assembly, Alex Danvers ('08) said he was certain that the presence of scores of students, each one making the case for more money for higher education and for the College, would have much more of an impact than Nichol would have had if he had arrived for breakfast and had walked into legislators' offices alone. "I

think it's important to have students out front, not just administrators, to show the faces affected by the budget cuts," he said.

Danvers and other students were buoyed in their efforts by a mid-morning pep talk by Norment, who urged students to carry to the offices of his colleagues a "sense of stewardship." "You all are the consumers of the higher education product that the State of Virginia delivers," he said. "Stewardship: that is your job today." Norment also encouraged students to consider returning to the General Assembly building one day as public servants, well prepared to serve on the front lines of democracy. "Public service is just another form of civic responsibility," he said, adding that "if you don't like [the way the politicians are handling the state government], do it yourself." And, for a day, that is what the students did.

"It's awesome," exclaimed Jesse Woods ('09), a government major who transferred from Northern Virginia Community College and was excited about the W&M excursion. For him, the trip was not only about reaching out to the legislators but also about making friends with other students, especially those interested in public service. "I was really nervous at first, [but] I like that everyone is so active," he said.

Levey said the students who traveled to Richmond were "very dedicated," even though fewer than half had ever been to the General Assembly before participating in the "Road to Richmond."

"We had good feedback from members of the General Assembly," he said with a hint of pride. "I think we left a good impression."

Reprinted with permission from the *William & Mary News*.

Healing 'The Troubles'

Continued from Pg. 7.

ister Tony Blair, who, Reiss said, played a major role in the peace process.

"His personal involvement always staggered me. He had little to gain politically," Reiss said. "His desire to solve this conflict didn't come from any sort of political calculation at all. There were absolutely no votes to gain from it."

Nevertheless, even this six-point plan did not guarantee peace in Northern Ireland. To illustrate the difficulties of achieving an accord, Reiss spoke about a particularly difficult transition for the British government—the move from dealing with the IRA as terrorists to dealing with the IRA as criminals.

This became clear in the case of Thomas "Slab" Murphy, a Catholic who lived on a farm that stretched across the border of Ireland and Northern Ireland, and who earned his nickname by dropping concrete

slabs on his enemies' kneecaps. He used his property's geography to his advantage, smuggling oil from Ireland, where it was cheap, into Northern Ireland, where it could be sold for much higher prices.

"Everyone knew where he lived and what he'd been doing for decades," Reiss said. "He was a symbol of everything that was wrong with the British approach. If he had only been taken down for tax evasion, if nothing else, it would have sent a huge signal."

The problem was, Reiss said, a lot of the people that the U.S. wanted the British to arrest were actually informants. With the problem viewed through the terrorism lens, these kinds of people were essential. But once the IRA's tactics became less like terrorists and more like organized criminals, arresting the bad guys became a difficult task.

Once, the British and Irish governments agreed on a plan to arrest Murphy in March 2006 and conducted a raid on his house. But minutes before the raid, Reiss said Murphy got a call from a friend, reportedly a relative of his in the Irish police,

informing Murphy of the impending raid. Murphy fled his home, Reiss said, his warm breakfast still on the table when police arrived.

Reiss identified three additional ways to improve peace processes. He said that the British government would have done well to adapt its tactics as the situation changed, such as by dealing with the IRA as criminals instead of as terrorists.

Next, he said, peacemakers too often congratulate themselves when the violence ends, forgetting to set up plans for job creation. Economic hardship was a major cause of the violence in Northern Ireland, and it did not go away because of any peace agreement. Reiss said many of the professionals in Northern Ireland had been raised as lawyers and doctors, not businessmen, making this transition difficult.

Finally, he said, there must be a significant, neutral effort for memorializing the conflict. Reiss said the people must be allowed to tell their stories, without either side attempting to revise history or refight the conflict. Both sides must be responsive to the wishes of local people. "Until they

do this, their troubles will never really be over," Reiss said.

When asked about the transferability of this peace process to other conflicts around the world, Reiss pointed out what makes Northern Ireland unique—it is small, unlike the Middle East, and it is circumscribed, unlike Darfur and the Congo. Irish-Americans played a huge role, he said, both with their voices and their pocketbooks, investing millions to restart a broken economy.

When asked whether it is helpful to elevate a leader like Gerry Adams—a man Reiss called "gifted" and "eloquent"—Reiss said it's not always that easy. First, there must be such a person to elevate, he said. "Yasser Arafat was never going to be that leader."

Second, there is an assumption that the United States, with its eternal optimism and immense power, is capable of solving any crisis on the world stage.

"It used to be a parlor game in Washington to identify the moderates among the mullahs in Tehran," Reiss said. "We all know how well that worked out."

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News In Brief

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

W&M Celebrates Martin Luther King, Jr.

On Jan. 24, more than 300 people gathered in the University Center to honor the life and work of Martin Luther King, Jr. Myrlie Evers-Williams, the widow of slain civil rights leader Medgar Evers and former chairwoman of the National Association for the Advancement of Colored People, spoke to the audience about the past and future of the civil rights movement, urging people to look back at the past “not in anger, not in hatred, but in an historical way—to look backward so we can build the future.” Evers-Williams noted and praised the sacrifices made on behalf of many members of the civil rights movement that go unnoticed. She acknowledged that, like she did, King also sung the praises of the overlooked warriors.

Evers-Williams admitted that during her husband’s life she urged him to turn away from the civil rights movement for fear that she and her children would never be able to live a normal life. She said she feared the worst. She recalled the day her husband was shot in 1963 in front of her family’s home, while her children watched.

Evers-Williams ended on a positive note, vowing to dedicate the rest of her life to fighting for equality.

Moot Court Team Wins Big in New Orleans

Larry Perrone (2L) and Johnny O’Kane (2L) placed first in the Tulane Moot Court Competition over the weekend. They argued on Jan. 31 in

the Fifth Circuit in the semi-finals, advanced to the finals, and took home the title. Make sure to congratulate some of the law school’s finest.

Nichol Announces New Planning Initiative in State of the College Address

On Jan. 29 President Gene R. Nichol spoke to a crowd of 300 students and faculty during his second annual State of the College Address in the University Center’s Commonwealth Auditorium. His speech focused on the campus-wide planning effort that will examine the College’s current resources and future needs. He said, “[O]ur future fundraising initiatives, both particularized and encompassing, so literally indispensable to the dreams of those yet to walk our halls, must be closely tied to our strongest needs, opportunities, and demands.”

He stated that the planning effort is a “crucial undertaking” that will be a process unique to William & Mary. As such, Nichol will be meeting with the Board of Visitors, the cabinet, deans, and faculty assembly in order to determine how to properly proceed with the planning effort.

Nichol turned to the funding shortfalls of the College, stating that state budget cuts have forced the university to cut back on its operational costs and faculty salaries. However, he is hopeful that focusing on development efforts within the College will compensate for the budget cuts.

Nichol noted the College’s commitment to public service and the promotion of diversity. He closed with remarks about expanding the College’s reach and influence throughout the state.



The 3L class gathered in Trinkle Hall on Friday, Feb. 1 to celebrate their last 100 nights of law school. Pictured left to right: Julianna Frisch, Amy Markopoulos, Geraldine Doetzer, and Jennie Cordis. For more photos of 100 Nights, see the collage on page 16.

Photo courtesy of Julianna Frisch, Contributor.



Mark Drumb, professor and director of the Transnational Law Institute at Washington & Lee University Law School, delivered a lecture titled, “Atrocity, Punishment and International Law” at W&M School of Law on Jan. 23.

Photo by Whitney Weatherly, Staff Photographer.



Williamsburg got its dose of winter last month.

LEFT: Thomas Jefferson—English wig or Sno-Fro?

RIGHT: The Wren Building.

Photos by Thomas Fitzpatrick, Contributor.



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.

Seeing the Forest for the ... Forest

by **Aaron C. Garrett**
Contributor



I worked for the Model Forest Policy Program (MMFP) during the summer of 2008. My internship was funded by the Public Service Fund, a merit-based fellowship run by the William & Mary Law School. I had two main research responsibilities while working for MFPP. First, I researched the upcoming global warming legislation in front of the 110th U.S. Congress. Second, I researched ordinances and statutes designed to protect and encourage ecosystems services in cities, counties, and states throughout the United States.

My research on global warming legislation led me to find that several pieces of legislation exist in both

the House and the Senate. Most all of these include a component that would cap carbon emissions by U.S. businesses and create a market for carbon emission permits. One of the pieces of legislation would have required the President to start talks with other nations with the goal of creating a worldwide carbon emissions scheme akin to the Kyoto Protocol. Although none of these pieces of legislation have been passed as of yet, Speaker Pelosi stated that global warming legislation is an important part of the 110th Congress's agenda. The relevance of these proposals to MFPP is that several of them allow landowners to make their land available to companies that emit carbon as a site where those companies can offset some of their carbon emissions through biological carbon sequestration. Through sophisticated measuring techniques, a landowner can measure the amount of carbon "sequestered" in the plants living on a

piece of land. Over time, the amount of carbon sequestered in a piece of land may increase, and a landowner could theoretically make that net increase available for purchase on a carbon trading market.

My research on ordinances and statutes designed to protect ecosystems services centered around the way in which open spaces provide an economic value to cities, counties, and states. For example, a piece of forested land has the potential to purify the water that passes through it. That water can be collected in a reservoir and provided by a city to its residents. This purification process is a "service" provided by the local "ecosystem." This concept is also known as "green infrastructure." Green infrastructure has the potential to make unnecessary human-made or "grey infrastructure," such as a water purification plant. My research generally centered around the efforts of cities and rural counties to preserve

open lands for the purposes of protecting a local watershed. I would track down the wording of an ordinance or statute, then contact the local agency that administered the program and ask them for any empirical data they had regarding the efficacy of their ordinances. I would then combine the texts and data, provide it to MFPP, which then used that information for various purposes, including during consultations with some of its client cities and counties.

I continue to work with the MFPP on an ad-hoc basis. I work to update my research on the federal global warming legislation, review publications and speeches, and generally assist organizational activities when necessary. I certainly look forward to continuing to help MFPP in its efforts to protect forestland and watersheds in Virginia and throughout the southeastern United States.

The Unfortunate Limits of Legal Aid

by **Todd Garvey**
Contributor



It happened to be doing intake interviews for Legal Aid in Minnesota. It's a task in which you are guaranteed to meet interesting characters, with often long, but fascinating, stories to tell. A tall, lanky African man walked in, a large and bright smile on his face. He was pleased to meet me. I asked him what we could do for him and in somewhat broken English he related his story. He was a Ugandan who had recently escaped the terrors of a refugee camp for a better life in America. Looking at his face I noticed he was missing an ear—a likely casualty from his time in the refugee camp. He was here because his wife, who had also made it to America, would no longer allow him to see his two boys.

He was HIV positive and the wife

felt he was a risk to the children. I asked him if he was on Social Security Disability because I knew he would qualify for benefits. He said he was not—letting me know that he was embarrassed to receive the aid when he felt he could still work. He was living on around \$100 a week. I tried to convince him to apply for Social Security but he refused, saying he did not need it and that the HIV had made him too tired to go through the paper work.

Here is a man who was clearly tortured in Uganda, has contracted HIV, has been banned from seeing his children by his wife, has barely enough income to live, and yet tells me with a smile that he does not deserve a handout. I asked him to wait a moment while I spoke to my supervisor. I returned to tell him that there was nothing we could do for him as domestic disputes were not on the understaffed and under-funded offices priorities. He thanked me for my time and left with a smile.

Public Service Announcement:

The Student Health Center has diagnosed 40 to 50 cases of the flu this week. Please go to the Health Center if you experience any of the following symptoms: high fever, headache, extreme tiredness, cough, sore throat, soreness of muscles, diarrhea, or vomiting

As a courtesy to your fellow law students, STOP SPREADING THE PLAGUE!

Also, if you develop flu-like symptoms, please remember that there is a healthy stock of toilet paper in all law library bathrooms.

Shug's Nights

by David Bules
Features Staff Writer



Date Auction is arguably the greatest social event here at the law school. I know it's now just called "PSF Auction," but I refuse to acknowledge the title change and frankly don't understand it.* I should make a note here though, that this date auction is unlike others. You are not so much buying the person as you are buying the package that PSF matches with the person on the auction block. So you're not obligated to actually go on a date with the person representing the package that you want to buy.

But back to my point...Date Auction is amazing. First of all it's for a good cause. Our Public Service Fund is one of the more attractive features that draw potential students to Marshall-Wythe. Second, it's a great way to showcase not only the incredible talent that some law students have, but also a way to showcase the hard work that PSF does all year long. Date Auction is simply the crown jewel for PSF.

We need to pack this event out. It's laid back enough that you don't have to dress up, so it's a great lead-up to Barrister's. But it's also wild enough that it's something you don't want to miss. And by wild I just mean the skits and talents are hilarious and unpredictable. Lately it's been the common theme to keep information on the skits under wraps until they come out on stage. This adds to the allure of the event.

You know that Nathan Pollard is going to sing, and play piano for 37 different skits, but you have no idea what songs he's going to perform or who he's going to perform with. You

know that there will be some great slapstick comedic skits such as last year's parody of *Anchorman*. In fact Saturday Night Live parodies are a near certainty every year. And Rob Thomas will inevitably do something hilarious and out-of-the-blue that only Rob could come up with. But you have to show up to see what it is, because he's not telling.

Daniel Zoller is quickly becoming one of the most requested performers for just about every PSF event, but it was Date Auction that really sprung him to fame. Last year Daniel wrote his own song that he probably could sell if he recorded it. It was that song that made me attend Singer-Songwriter last fall to see what he'd do next. Daniel didn't disappoint when he dedicated an acoustic version of "Umbrella" by Rihanna to Neal Hoffman. He sounds like David Gray, but his eclectic style means you never know what he may bring to the table...or block this time. About five minutes after I finished this column, I received some unfortunate news. Daniel had to drop from this year's auction because of a conflicting event. But he still deserves the recognition.

Even without Daniel, the auction will have plenty of musical talent. Nathan Pollard is a one-man show, but offers his musical services to those needing accompaniment. For three years now we have seen the unlimited talent that Nathan possesses. He's done countless routines for both Date Auction and Singer/Songwriter. Nathan is Marshall-Wythe's Renaissance Man. To be blunt, Nathan Pollard is quite simply the most talented musician in this law school. Add in newcomer and heiress apparent to the law school musical throne, Laura Collins, and we have ourselves a nice little concert.

Then there are the acts that come

out of nowhere that become legendary in one night. Last year there was the famous workout routine. The year before, it was the cake-eating contest. This year, without giving away too much, I have a hunch it's going to involve uniforms from one of William & Mary's sports teams.

But beyond the acts, it's a great way for people to get to know each other. It's a great way for the 1L, 2L and 3L classes to mingle. It's not a formal event where people are more likely to be dancing with their group of friends. When you add in the beer and food, it makes for an enjoyable night.

This is easily PSF's biggest moneymaker as far as I know. And that's another reason to come out. You will see a theme develop throughout the night. The later it gets, the more money PSF will take in. And that's exactly how date auctions are supposed to work.

I participated in a charity auction in D.C., in which we raised money for Hoop Dreams Scholarship Fund (HDSF). In one night the non-profit that put on the auction took in \$45,000 to donate to the HDSF. The amazing part about this was, there were only 20 people on the auction block. Granted the silent auction took in a lot of money too. But the point is that they split the 20 people into two equal groups. The first group was auctioned off around 8 p.m. That group went for an average of \$300 per person. The second group came up around 10 p.m. That group averaged \$1,000 per person.

So why the stark difference? I mean both groups were equally fun and attractive. The difference: beer. Any organization knows full well that when you run a date auction, as the beer flows so flows the money. So later in the night, the faster the beer is flowing the faster the money should

be flying out of people's pockets.

Last year the final five or so groups took in incredible amounts of money. First, a PSF record was set when Maryann Nolan (last year's PSF President) went for over \$700. Five minutes later PSF set a new record when Ginna Kelly (part of the work-out routine) went for \$1300. This was one of the most amazing sights I've seen at date auction. It prompted an entire column after the auction last year. But this is why Date Auction is so great...for one night, people bust out the checkbooks like it's Christmas and donate to a good cause. Now, \$1,300 was out of many of our price ranges last year, but it doesn't stop people from bidding. There's no rule against combining your checkbooks. That's how we pulled off the Maryann record.

PSF is also going a long way to up the ante on their packages. This year there are separate packages of six Washington Wizards tickets, two Washington Capitals tickets, golf at Williamsburg National, and what I predict will be the biggest seller of the night...four Boston Red Sox tickets. Yup that's right, as Busta Rhymes once said: "Four words...Bos-Ton-Red-Sox."

So here's my call to arms: Let's break the record not only for the single person (\$1300), but the record for the entire night (\$16,000). Let's help PSF. Let's help our fellow students, as they will be the ultimate beneficiaries of the donations when they start work in public service this summer. Let's empty our wallets and clean out our checkbooks for a good cause. Let's get it done.

**Editor's Note: The PSF Auction is not called a "date auction" because no dates are actually purchased. The event's official name is "PSF Auction."*

Letter to the Editor

For Virginia residents, the future of the College of William & Mary matters. Only under the leadership of President Gene Nichol can W&M fulfill its duty to Virginia citizens and jump from a well-renowned school to a premiere university.

Already, Nichol has proven his ability to guide the College to a higher echelon of universities. Nichol advocates an accepting, open environment at W&M, encouraging a broad student body that better reflects and, thus, better serves a globalized, heterogeneous

Virginia. To achieve this goal, Nichol worked with the Board of Visitors and Office of Admission to implement the Gateway Program, a financial aid program that funds the education of Virginia students from families that make less than \$40,000 per year. This year, 166 W&M students attend the school through the Gateway Program. Nichol also emphasized international study with the 2010 Initiative, designed to facilitate W&M students studying abroad. Furthermore, working closely with the Office of Multicultural Affairs,

Nichol has aggrandized the presence of the multicultural community on campus—a noticeable difference that attracts students from diverse ethnic, cultural, and socioeconomic backgrounds.

Employed by a state institution that is perennially under-funded, Nichol acknowledges the importance of fundraising to elevate W&M to premiere status. In June 2007, Nichol completed the "Campaign for William & Mary" \$17 million over the goal. In 2007 Nichol and the Office of Development raised another five million

through the Fund for William & Mary, a record amount.

The most optimistic assessments of Virginia's future rely on a solid foundation of higher education. Only with the leadership of President Nichol will William & Mary continue to progress towards the status of a truly public, small, and great university.

Jonathan Welle
The College of William & Mary,
Class of 2008

Healthy Living: Why Virginia Should Go Smoke-Free

by Alan
Kennedy-Shaffer
Features Editor



Starting today, residents of Maryland began to breathe a little easier with the implementation of a statewide smoking ban in nearly all indoor public places. Virginians, on the other hand, continue to suffer in carcinogenic agony. With no statewide smoking bans on the books, the Commonwealth smokes in increasing isolation. 32 states have enacted smoke-free workplace measures; 30 states prohibit smoking in restaurants; 21 states bar smoking in bars; and 20 states ban smoking in workplaces, restaurants, and bars. And as might be predicted by the fact that a majority of states have passed statewide smoking bans, such measures now protect a majority of Americans.

Living in Virginia leaves us gasping for air in the smoking section. Fortunately for those of us who like our lungs, the clouds may soon be lifting. Smoke-free bills are winding their way through the Virginia Senate that would ban smoking in indoor public buildings, including restaurants and bars. Although smoke-free measures have failed twice before and the Republicans who control the House of Delegates are less likely than the Virginia Senate leadership to be receptive to smoking bans, the expected passage of smoke-free legislation in the Senate will put significant pressure on the House to consider bills that would ban smoking.

Senate Majority Leader Richard L. Saslaw (D-Fairfax) told *The Richmond Times-Dispatch* on Friday that any natural right of Virginians to smoke disappears when it interferes with the right of other Virginians to work and dine without involuntarily inhaling invisible killers. "Their civil rights end at my nose," he said.

A majority of Virginians support a statewide ban on smoking in indoor public places, a 2005 Mason-Dixon poll showed. More than three quarters of Virginians, in fact, favor smoke-free workplaces and restaurants. And only a quarter of Virginians strongly oppose legislation that would ban smoking in nearly all public buildings. Interestingly enough, a majority of those surveyed identified themselves as smokers or former smokers, evidence that

many smokers recognize the dangers caused by secondhand smoke.

Those dangers, the Surgeon General reports, include lung cancer and other types of cancer, heart disease, asthma attacks, and premature death in children and adults. For those people who value human life—or at least American lives—the scientific community is in agreement that involuntary exposure to secondhand smoke is incompatible with healthy living. Not only is smoking America's "single greatest avoidable cause of disease and death," there is no risk-free level of exposure to secondhand smoke.

"The scientific evidence on the health risks associated with exposure to secondhand smoke is clear and convincing," Governor Kaine announced in a recent press release his strong support for a statewide ban on smoking in restaurants. "Recognizing the negative health effects and high public costs of secondhand smoke, Virginia must act to protect the workers and consumers in its restaurants."

Designated a "known human carcinogen," or cancer-causing agent, by the EPA, the National Toxicology Program, and the International Agency for Research on Cancer, and designated an "occupational carcinogen" by the National Institute for Occupational Safety and Health, secondhand smoke contains scores of toxic chemical particles that cannot be removed by normal air cleaning systems. Ventilation systems, in fact, tend to redistribute secondhand smoke throughout buildings rather than removing it from the air. And in case you were wondering what chemicals secondhand smoke contains, the list of killers includes formaldehyde, arsenic, ammonia, and hydrogen cyanide.

As if the allure of clean air and lower cancer rates were not enough to convince the skeptics that Virginia needs to go smoke-free, a slew of peer-reviewed studies from the CDC have found that restaurants and bars do not suffer any adverse economic consequences from indoor smoking bans. Florida's leisure and hospitality industry sales and employment, for example, remained steady after the statewide smoke-free law went into effect. And sales at bars and restaurants in New York City and California actually increased after the enactment of their respective citywide and statewide smoking bans.

Debunking another myth about smoking bans, it is also worth pointing out that statewide bans on

smoking indoors are proven to help smokers quit. Because smokers have more nicotine craving receptors in their brains than nonsmokers, NPR reported a few months ago that smokers are much more easily triggered by secondhand smoke to crave nicotine than nonsmokers. By removing the trigger, smoking bans lead many smokers to smoke less or to quit altogether. Dozens of studies reviewed by the CDC found significant evidence of smoking reduction or smoking cessation among employees whose workplaces suddenly became smoke-free. For example, adults in municipalities that enacted smoking bans, and teenagers whose perception of smoking changed as a result of increasingly widespread smoke-free regulations.

The only thing standing between the Commonwealth and smoke-free air is the tobacco industry, which has spent more than \$100 million on lobbying efforts to prevent the Virginia legislature from passing statewide anti-smoking laws. As an extern for one of the delegates, I have seen firsthand the tremendous pressure that the smoking lobby exerts on our elected representatives. I have also seen legislation in the public interest struck down for private reasons about which the public cares little, such as lining the pockets of the smoking executives. Each of us should call our legislators and tell them to sup-

port the smoke-free measures now pending in both houses of the state legislature.

We owe it to ourselves and to those who work in smoke-filled restaurants to push Virginia to go smoke-free. With a majority of states and citizens already protected by statewide and municipal bans on smoking in workplaces, restaurants, and bars, it is high time that the state stepped up to join the movement for cleaner air and healthier living. Although some senators and delegates may find it difficult to say no to wads of cash pushed into their campaign coffers by desperate cigarette manufacturers and morally bankrupt tobacco product executives, they must find the courage to put the health of Virginians first.

Secondhand smoking kills thousands of people every year. Why should smokers be allowed to continue to kill their friends, family members, and people they do not know without their permission? If cigarettes did not produce billions of dollars in revenue each year, they would surely be relegated to illegality, like other addictive drugs and other known carcinogens. The first step toward healthier living in Virginia is for the state legislature to pass a statewide smoking ban in indoor public places, especially workplaces and restaurants. Virginia should go smoke-free.



The Annual PSF Auction will be held
Sat. Feb. 9 in Trinkle Hall!

Some of the amazing live and silent auction items this year include: the 6 best seats for the 3Ls' 2008 graduation ceremony, 2 tickets to see Kenny Chesney live in concert, tickets to see the Wizards play, a digital camera, dinner packages, movie tickets, a meal with your favorite professor, and (get excited) 4 box seats to a Red Sox game.

Come to Trinkle Hall the night of Feb. 9 to bid on these items and more, see your friends show off their talent (or lack of) on stage, have a lot of fun, and support your Public Service Fund!

Questions about this awesome event?
Email Jennie Cordis, jgcord@wm.edu
Or Sarah Landres, sgland@wm.edu

The Arts Brief: The Sex Workers' Art Show: Yes or No?

Look to this space each week for the more "cultured" side of *The Advocate*

by Jenny Kane
Arts
Correspondent



Facts:

At 7 p.m. on Feb. 4, the performers of the traveling "Sex Workers' Art Show" will take the stage at the College of William & Mary University Center for the first of two evening performances; the second will follow at 9:30 p.m. later that night. The Sex Workers' Art Show will then perform at George Mason University in Fairfax, VA the following night before continuing its 2008 tour schedule with stops at a variety of clubs and college campuses, including Harvard, RISD, Wesleyan, University of Michigan, Bard, Kenyon, and Indiana University.

If you have not already noticed the use of the future tense in these statements, I call your attention to it now. I urge you to notice this flawed journalistic seam: on one edge, the time of the writing of this article (the future performance) and on the other edge, the time in which you will read this article (the performance past). At the very moment you are reading, the performance will have surrendered to the past tense, for it will have already happened, or it will not have happened as the case may be. And oh what a case the College has created, just for deciding this simple distinction of happening versus not happening! There is no proverbial imperative the show must go on, at least on the College's part.

In the future tense of this review there is the possibility of performance and the potential for prohibition. In other words, in reviewing this particular Sex Workers' Art Show, I am reviewing art that has yet to be made, a show that has yet to go on, and thus I am reviewing a show that may in fact not go on, art that could, if some had their way, never be made on this campus. And so, the reviewer's problem is no longer a critique of the performance's content, but the availability of the performance in the first place so that such critique can then ensue. This is a call for the opportunity to view, ignore, make, support, listen, attend, watch, be unaware, be angry, get excited, and question.

Procedural History:

To start, let's break down the show's potentially intimidating and elusive title with the aid of the performance's own statement of

artistic purpose. 1. Sex Workers (as they are self-defined): The performers and artists who make this show are from "all areas" of the sex industry, including strippers, prostitutes, domes, film stars, internet models, and phone sex operators, etc. 2. Art: The show's structure is cabaret in style and offers its audiences "a wide range of perspectives on sex work" through the media of spoken word, burlesque, music, and other multimedia performance art. 3. Show: "An eye-popping evening of visual and performance art created by people who work in the sex industry to dispel the myth that they are anything short of artists, innovators, and geniuses!" The mission statement further emphasizes the social and political value of its performers' work. Each piece claims to serve as commentary, whether it is positive or negative, on the sex industry as well as issues of class, race, gender, and sexuality.

For the past two years the show has gone on with comparatively little difficulty from the administration. This year, however, one might observe a variety of components of the College's political bureaucracy and economic situation have converged to produce not merely a controversy over the show's message, but the strong possibility that the Sex Workers' Art Show would not gain approval to appear on the College campus or receive the necessary funding from the College's Student Assembly. It is not standard for College President Gene Nichol to review student requests for venues for events held on campus, but in the case of the Sex Workers' Art Show, the administration made an exception, assuming a responsibility typically delegated to Student Activities.

When no suitable off-campus venue for the performance was found, Nichol released a statement confirming that the students organizing the show had complied with College policy, and that the fundamental rights conveyed under the First Amendment trump even the most dissident and disapproving voices, including his own. Rector of the College, Michael Powell, issued a parallel statement suggesting that the College should implement "a more coherent policy involving the allocation of limited College resources," implying that in the future controversial events like the Sex Workers' Art Show may not receive funding.

Even after the release on Jan. 28 of Nichols's statement allowing

the show to go on as planned, there appeared to be no complete or easy guarantees. On Jan. 31, as students held a free speech forum to allow students and faculty both for and against the event to voice their opinions, the show's student organizers received a contract from the College, requiring their signatures prior to the performance. The student organizers have sought the aid of lawyers working locally for the ACLU to amend the contract, which includes among its terms the ban of any recording of the show, including by the performers themselves. At the time of the writing of this article, students were still in the process of revising this contract to exclude the ban, which Professor William Van Alstyne told *The Daily Press* was "utterly unfair" and dangerous as it could render performers liable to subsequent legal action. As of Feb. 1, student organizers assured me that the show would indeed go on and, as in past years, would most probably fill the University Center Commonwealth auditorium beyond capacity for both performances.

Issue:

Sex Workers' Art Show: Yes or No?

Holding:

To quote President Nichol: "The First Amendment and the defining traditions of openness that sustain universities are hallmarks of academic inquiry and freedom. . . . The College of William & Mary will not knowingly and intentionally violate the constitutional rights of its students. Censorship has no place at a great university."

Reasoning:

It is clear that this issue would not be controversial if the answer for everyone to whether or not the Sex Workers' Art Show should be funded and permitted to occur on the College campus were a simple and definitive yes or no. The point we should hold here is that there is a need for this controversy, even when it seems unproductive; the disagreement and dialogue is without doubt meaningful, and it is, of course, central to the educational purpose of the College. The issue here is that there is an issue, an issue, which it is my understanding many law students do not even know exists.

How is it possible that the College of William & Mary makes a serious challenge to the First Amendment effectively across the street from where we, the law students at William & Mary, study and analyze every day the fundamental rights, such as those the

First Amendment conveys, and that many of us are not even aware? Not only is it scary, it is wrong that we did not become a more significant part of the dialogue with undergraduate and other graduate students on the issue of the Sex Workers' Art Show regardless of which side individual students would have supported.

While student organizers met with President Nichol late into the night to discuss the Sex Workers' Art Show coming to campus, law students paced the halls in suits waiting to argue for petitioner and respondent in the moot court Bushrod Tournament. These students who had read, prepared, memorized, and stressed would argue on many of the very same issues inherent in the struggle occurring at this public university about our students' freedom to speech and expression. And yet how many of these law students even knew what the Sex Workers' Art Show was, or that the performance was slated to occur in less than a week's time at William & Mary?

I do not condemn law students for not having enough time in the day to complete what their academic and extracurricular responsibilities require; however, I implore you to take an interest in the greater community you are a part of here, and I ask us all to resolve our insularity "over here" at the law school. While you were holed up in the library, a protest may have occurred, a university policy decision rendered, a television interview with a William & Mary student recorded, or a forum on free speech held. Why were more of our voices not heard in the discussion at that forum?

Whether upon reading this article, if you read this article, you have seen the Sex Workers' Art Show, you have heard about it, or you knew nothing about it until reading this headline, commit to knowing in the future, or making an effort to be more involved. This question of commitment extends beyond one issue at the College of William & Mary, and especially at the law school. Think about it. When your professor says something ignorant or questionable, question it. Students, don't say you are too tired or busy—we are all so tired and busy—open your eyes just long enough to see something worth seeing. This is not an issue of politics or perspective. Be more aware. There is plenty to see here.

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