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Nichol Resigns in Protest: Reveley Named Interim President, Butler Becomes Dean

by Alan Kennedy-Shaffer
Features Editor

President Gene R. Nichol resigned his position at the helm of the College of William & Mary on Tuesday, Feb. 12, just two days after being notified by the Rector of the Board of Visitors that his contract would not be renewed in July.

W. Taylor Reveley, the Dean and John Stewart Bryan Professor of Jurisprudence here at the Marshall-Wythe School of Law, will take over as interim president until the Board of Visitors names a permanent replacement. Lynda Butler, Vice Dean and Chancellor Professor of Law, will become interim dean until Reveley returns to the law school.

In an email message sent to the William & Mary community at 9:42 a.m. on Feb. 12, Nichol attributed the College governing body’s decision not to renew his contract to several controversial decisions that he has made over the last sixteen months. (For the full text of Nichol’s email see page 4).

“I have made four decisions, or sets of decisions, during my tenure that have stirred ample controversy,” Nichol said.

These decisions include removing a cross from the Wren Chapel last year and permitting the Sex Workers Art Show to go forward as planned two years in a row. Nichol also endeavored to increase financial aid for students from low-income families and to make the College a “more diverse, less homogenous institution,” he said.

Four members of the Board of Visitors were grilled on Thursday, Feb. 7, by Republican legislators at the General Assembly who called Nichol’s decisions embarrassing. Three days later, the Board of Visitors quietly informed Nichol that his contract would not be renewed.

Admitting that his tenure “has not been a perfect presidency,” Nichol said that he has made mistakes and that a “wiser leader would likely have done otherwise.”

“I have sometimes moved too swiftly, and perhaps paid insufficient attention to the processes and practices of a strong and complex university,” Nichol confessed.

But Nichol berated the Board of Visitors for offering his family “substantial economic incentives” in exchange for not describing the non-renewal decision as “based on ideological grounds. Characterizing the...
Law Students Supported Nichol

by Alan Kennedy-Shaffer
Features Editor

Editor’s Note: This survey was conducted Feb. 11-14. This overlapped with the announce-
ment of the non-renewal of Nichol’s contract and his subeesquent resignation. However, 64 percent
of the respondents completed the survey prior to the announce-
ments. The 36 percent of polled students that responded to the
questions after the announcement of Nichol’s resignation did not
significantly change the results.

The law school student body wanted Nichol’s contract to be renewed
by a ratio of nearly four to one, The Advocate’s “Marshall-Wythe Issues
Survey” showed. 78 percent of students answered affirmatively in response to
the question, “Should William and Mary President Gene Nichol’s contract
be renewed?” Only 22 percent did not think that Nichol’s contract should be
renewed.

69 percent of law students also said that they support Nichol’s decisions
concerning the Wren cross, compared
to 31 percent who said that they do not
support those decisions. And nearly
nine out of ten students (87 percent)
indicated that they support Nichol’s
leadership in the area of civic engage-
ment, one of Nichol’s pet projects.

Students at the law school ex-
pressed concern, however, about the
College’s new logo, with only 33
percent saying that they like the new
William & Mary logo and 66 percent
signaling their disapproval.

Overall, more than three out of four
students (76 percent) said that the Col-
lege was headed in the right direction,
although that figure may have changed
since Nichol’s ouster by the Board of
Visitors and subsequent resignation.

Asked to rate Nichol’s job performance,
nealy 57 percent of law students gave
Nichol either a 4 or a 5 on a scale from
1 (Poor) to 5 (Excellent).

Released to students before Nichol
announced his non-renewal and res-
ignation, the survey results indicated
broad support for Nichol across all
three law school classes and among
males and females, although Demo-
crats were significantly more likely to
support Nichol than Republicans and
those students who checked “Other”
as their political affiliation.

The Advocate’s survey is the only
statistically validated survey of student
opinion about Nichol and issues related
to Nichol’s tenure as president that has
been conducted at William & Mary.

228 law students, or more than a
third of all law students, completed
all seven substantive questions in the
survey. Full-time faculty members and
administrators did not respond to the
survey in sufficient numbers to draw
statistically significant conclusions.

The survey was conducted online
from Monday, Feb. 11 to Thursday,
Feb. 14. At a 95 percent confidence
level, the survey has a margin of error
of plus or minus 3 percent.
W&M Law School Hosts Citizen-Lawyer Symposium

A collection of some of the country’s most respected legal minds, including Justice Sandra Day O’Connor, gathered to assess the idea of the citizen-lawyer earlier this month at the William & Mary School of Law, where George Wythe first put forward the concept more than 200 years ago.

“In Wythe’s words, “Here we will form such characters as will be useful,”” said Dean Taylor Reveley III, in his opening remarks on Friday, Feb. 8. “Do we merely talk the talk, or do we actually believe in the concept?”

The weekend’s participants included a who’s who of citizen-lawyers and legal educators: Duke’s Paul Carrrington, Wisconsin’s Marc Galanter, Fordham’s Bruce Green, Harvard’s Mark Tushnet, Yale’s Robert Gordon, Dean Ed Rubin of Vanderbilt and Sanford Levinson of Texas. William & Mary’s own James Moliterno, himself a distinguished citizen-lawyer, gave a lecture and organized the conference with help from the Institute of Bill of Rights Law and the William & Mary Law Review, which will publish papers of speakers at the conference.

“Lawyers have a flaw,” Moliterno said. “They are oriented toward the narrow interest of their clients, not toward the public interest.”

Moliterno focused his talk on the role of the citizen-lawyer as legislator. He emphasized that while zealous representation of the client presents a challenge to lawyers who want to serve the public, he believes the challenge can be met.

“We don’t count on lawyers to go around figuring out what’s in other people’s interest,” Moliterno said. “Can lawyers overcome this? Of course.”

O’Connor, the Chancellor of the College of William & Mary, opened the two-day conference with an assessment of the legal profession.

“I applaud Dean Reveley and the law school for putting on the table the topic of the citizen-lawyer,” she said. “We don’t often hear of citizen-lawyers. The public doesn’t have a favorable opinion of lawyers. They’re thought of more as hired guns than as civic contributors.”

Reveley provided four reasons why lawyers are uniquely situated to serve the public interest, when contrasted with other professionals. The first, he said, is that law can either be viewed as a calling or as a way to make a living, and that lawyers ought to believe in the former, not the latter. “This profession is a calling,” he said. “This is what’s most important to happiness and a sense of satisfaction.”

Second, Reveley said that lawyers have served an unusually important role in American government since the country’s inception. The judicial branch is composed entirely of lawyers, and lawyers have traditionally been well represented in the legislative and executive branches.

Spotting issues, understanding competing positions, and dealing with conflict in constructive ways are the skills that lawyers bring to the table. This, Reveley said, is the third reason that lawyers, rather than doctors, engineers, or other professionals, continue to play a dominant role in serving the public interest.

Finally, Reveley said that lawyers should focus on serving the public good out of gratitude.

“Without the government that produces the law, lawyers would not have the substance of their work,” he said. “The practice of law is not a triumph of the free market; we are dependent on government subsidy and protection.”

In his talk, Robert Gordon said that many of today’s lawyers hunger not for more pay or promotions, but for a sense of satisfaction in their work and the “service of meaningful ideals.”

“Where the profession has faltered is in not allowing more time for lawyers to pursue public interests,” Gordon said.

Paul Carrington described the poignancy of having such a conference at the ancient College of William & Mary.

“If we’re going to talk about the citizen-lawyer, there’s no place else to begin than at the College of William & Mary and George Wythe.”

Justice Sandra Day O’Connor happily answers questions at the IBRL Citizen Lawyer Symposium.

Photo by Whitney Weatherly, Staff Photographer.

Justice Sandra Day O’Connor greets Carrie Pixler (1L) before a question-and-answer session which kicked off the IBRL Citizen Lawyer Symposium. O’Connor and Pixler, both Arizona natives, made a trip to the driving range together during the justice’s weekend visit.

Photo by Benjamin David Novak, Contributor.
Dear Members of the William & Mary Community,

I was informed by the Rector on Sunday, after our Charter Day celebrations, that my contract will not be renewed in July. Appropriately, serving the College in the wake of such a decision is beyond my imagining. Accordingly, I have advised the Rector, and announce today, effective immediately, my resignation as president of the College of William & Mary. I return to the faculty of the school of law to resume teaching and writing.

I make four decisions, or sets of decisions, during my tenure that have stirred ample controversy.

First, as is widely known, I altered the way a Christian cross was displayed in a public facility, on a public university campus, in a chapel used regularly for secular College events—a voluntary and mandatory—in order to help Jewish, Muslim, Hindu, and other religious minorities feel more meaningfully included as members of our broad community. The decision was likely required by any effective notion of separation of church and state. And it was certainly motivated by the desire to expand the College’s welcome more generously to all. We are charged, as state actors, to respect and accommodate all religions, and to endorse none. The decision did no more.

Second, I have refused, now on two occasions, to ban from the campus a program funded by our student-fee-based, and student-governed, speaker series. To stop the production because I found it offensive, or unappealing, would have violated both the First Amendment and the traditions of openness and inquiry that sustain great universities. It would have been a knowing, intentional denial of the constitutional rights of our students. It is perhaps worth recalling that my very first act as president of the College was to swear on oath not to do so.

Third, in my early months here, recognizing that we likely had fewer poor, or Pell eligible, students than any public university in America, and that our record was getting worse, I introduced an aggressive Gateway scholarship program for Virginians demonstrating the strongest financial need. Under its terms, resident students from families earning $40,000 a year or less have 100 percent of their need met, without loans. Gateway has increased our Pell eligible students by 20 percent in the past two years.

Fourth, from the outset of my presidency, I have made it clear that if the College is to reach its aspirations of leadership, it is essential that it become a more diverse, less homogeneous institution. In the past two and half years we have proceeded, with surprising success, to assure that is so. Our last two entering classes have been, by good measure, the most diverse in the College’s history. We have, in the past two and a half years, more than doubled our number of faculty members of color. And we have more effectively integrated the administrative leadership of William & Mary. It is no longer the case, as it was when I arrived, that we could host a leadership retreat inviting the 35 senior administrators of the College and see, around the table, no persons of color.

As the result of these decisions, the last sixteen months have been challenging ones for me and my family. A committed, relentless, frequently untruthful and vicious campaign—even on the internet and in the press—has been waged against me, my wife and my daughters. It has been joined, occasionally, by members of the Virginia House of Delegates—including last week’s steps by the Privileges and Elections Committee to effectively threaten Board appointees if I were not fired over decisions concerning the Wren Cross and the Sex Workers’ Art Show. That campaign has now been rendered successful. And those same voices will no doubt claim victory today.

It is fair to say that, over the course of the past year, I have, more than once, considered either resigning my post or abandoning the positions I have taken on these matters—which I believe crucial to the College’s future. But as I did so, I thought of other persons as well.

I thought of those students, staff, faculty, and alumni, not of the religious majorit[y] who have told me of the power of even small steps, like the decision over display of the Wren Cross, to recognize that they, too, are full members of this inspiring community.

I have thought of those students, faculty, and staff who, in the past three years, have joined us with explicit hopes and assurances that the College could become more effectively open to those of different races, backgrounds, and economic circumstances—and I have thought of my own unwillingness to voluntarily abandon their efforts, and their prospects, in mid-stream.

I have thought of faculty and staff members here who have, for decades, believed that the College has, unlike many of its competitors, failed to place the challenge of becoming an effectively diverse institution center stage—and who, as a result, have been strongly encouraged by the progress of the last two years.

I have thought of the students who define and personify the College’s belief in community, in service, in openness, in idealism—those who make William & Mary a unique repository of the American promise. And I have believed it unworthy, regardless of burden, to break our bonds of partnership.

And I have thought, perhaps most acutely, of my wife and three remarkable daughters. I’ve believed it vital to understand, with them, that though defeat may at times come, it is crucial not to surrender to the loud and the vitriolic and the angry—just because they are loud and vitriolic and angry. Recalling the old Methodist hymn that commands us “not to be afraid to defend the weak because of the anger of the strong,” nor “afraid to defend the poor because of the anger of the rich.” So I have sought not to yield. The Board’s decision, of course, changes that.

To my faculty colleagues, who have here created a distinctive culture of engaged, student-centered teaching and research, I will remember your strong and steadfast support until the end of my days.

To those staff members and alumni of this accomplished and heartening community, who have struggled to make the William & Mary of the future worthy of its distinctive past, I regret that I will no longer be part of that uplifting cause. But I have little doubt where the course of history lies.

And, finally, to the life-changing and soul-inspiring students of the College, the largest surprise of my professional life, those who have created in me a surpassing faith not only in an institution, but in a generation, I have not words to touch my affections. My belief in your promise has been the central and defining focus of my presidency.

The too-quick ending of our work together is among the most profound and wrenching disappointments in my life. Your support, particularly of the past few weeks and days, will remain the strongest balm I’ve known. I am confident of the triumphs and contributions the future holds for women and men of such power and commitment.

I add only that, on Sunday, the Board of Visitors offered both my wife and me substantial economic incentives if we would agree “not to characterize [the non-renewal decision] as based on ideological grounds” or make any other statement about my departure without their approval. Some members may have intended this as a gesture of generosity in my departure. But the stipulation of censorship made it seem like something else entirely. We, of course, rejected the offer. It would have required that I make statements I believe to be untrue and that I believe most would find non-credible. I’ve said before that the values of the College are not for sale. Neither are ours.

Mine, to be sure, has not been a perfect presidency. I have sometimes moved too swiftly, and perhaps paid insufficient attention to the processes and practices of a strong and complex university. A wiser leader would likely have done otherwise. But I have believed, and attempted to explain, from even before my arrival on the campus, that an emboldened future for the College of William & Mary requires wider horizons, more fully opened doors, a broader membership, and a more engaging clash of perspectives than the sometimes narrowed gauges of the past have allowed. I step down today believing it still.

I have also hoped that this noble College meets one day claim not only Thomas Jefferson’s pedigree, but his political philosophy as well. It was Jefferson who argued for “a wall of separation between church and state”—putting all religious sects “on an equal footing.” He expressly rejected the claim that speech should be suppressed because “it might influence others to do evil,” insisting instead that “we have nothing to fear from the demoralizing reasonsings of some if others are left free to demonstrate their errors.” And he averred powerfully that “worth and genius” should “be sought from every condition of society.”

The College of William & Mary is a singular place of invention, rigor, commitment, character, and heart. I have been proud that even in a short term we have engaged a marvelous new Chancellor, successfully concluded a hugely-promising capital campaign, secured surprising support for a cutting-edge school of education and other essential physical facilities, seen the most vibrant applicant pools in our history, fostered path-breaking achievements in undergraduate research, and more potently internationalized our programs and opportunities, led the nation in an explosion of civic engagement, invigorated the fruitful marriage of athletics and academics, lifted the salaries of our lowest-paid employees, and even hosted a queen. None of this compares, though, to the magic and the inspiration of the people—young and older—who Glenn and I have come to know here. You will remain always and forever at the center of our hearts.

Go Tribe. And hark upon the gale.

Gene Nichol
Nichol Resigns
Continued from front page.

Nichol said that he rejected the hush money because it would have required him to “make statements I believe to be untrue and that I believe most would find non-credible.”

“The values of the College are not for sale,” he said.

Nichol’s office did not return calls for comment.

Matt Beato, a junior at the College and chair of the Student Assembly Senate, said that Rector Michael Powell called him on Feb. 12 to tell him that he was “not anticipating President Nichol’s decision to send the email.” Powell told Beato that he was “very upset” about Nichol’s campus-wide notification.

“Most of this Board is as liberal as they come and I don’t see people like Suzanne Matthews and Jeff Trammell falling prey to attacks from the right wing,” Powell reportedly said. “Taylor Reveley, Dean of the Law School, will take over as interim president. He was runner-up for the presidency job.”

Powell’s own campus-wide email, sent two hours after Nichol stunned students with his resignation, lashed out atNichol’s office did not return calls for comment.

Nichol’s decision was not in any way based on ideology or any single public controversy,” Powell said. “To suggest such a motivation for the Board is flatly wrong.”

Because an announcement on whether Nichol would be renewed had not been expected until the final days of the semester, the decision took the campus by surprise and caused mass controversy, “The drama of the day is some of that cost. I’m here because of doing what I believe in.”

Nichol ended the speech on an emotional note. “All of you—you will always be my students. I will remain grateful for that until the end of my days. You live here,” he said, placing his hand over his heart. Cheers from the crowd nearly drowned out his final words, “Go Tribe!”

Student supporters of Nichol said that they are angry and frustrated that Nichol’s contract would not be renewed. Devan Barber, a senior at the College who has led various pro-Nichol efforts since the president first came under fire for the Wren cross decision, said she is “disappointed that even though the majority of faculty and the majority of students ardently supported Gene Nichol, outside sources and outside people were able to tear this man down.”

“I think it sets a horrible precedent for the future of the College, and, honestly, I’m kind of afraid that we’ve allowed this to be the standard,” Bar ber said. “I think that this is a horrible decision.”

In response to the protests, Powell acceded to student demands that members of the Board of Visitors will come to campus this week to “hear the views and concerns of our community in person and to answer questions.”

Meanwhile, back at the law school, Reveley has been busy packing his bags as he prepares to become the next president of the College, although he promised students in an email that he intends to “return to my old job at the law school.” Emphasizing that William & Mary “must come together to heal wounds, revive ideals, and restore hope,” Reveley said that he and Nichol are “good friends” who share many of the same values and beliefs.

Freed from his administrative obligations, Nichol will return to the law school to “resume teaching and writing.” There is no word yet on which course he will be teaching or what areas of the law he will be researching, but he will make his office, at least temporarily, in the Institute of Bill of Rights Law conference room.

Butler’s first act as the interim dean was to reassure students that Marshall-Wythe “will not be in a holding pattern while [Reveley] is gone.” The transition, she said in an email on Friday, Feb. 15, will be “seamless.” She also promised to continue Reveley’s famous “open-door policy.”

The Powell Letter

February 12, 2008

Dear Members of the College of William and Mary Community,

President Nichol has announced that he will not serve the remainder of his term. We had hoped that he would and regret his decision. The Board of Visitors decision not to renew his contract after his current agreement expires on June 30th was extremely difficult. President Nichol achieved some outstanding things during his tenure. His energy and passion is legendary. He is a truly inspirational figure who has enjoyed the affection of many. After an exhaustive review, however, the Board believed there were a number of problems that were keeping the College from reaching its full potential and concluded that those issues could not be effectively remedied without a change of leadership.

It is critical to explain that this decision was not in any way based on ideology or any single public controversy. To suggest such a motivation for the Board is flatly wrong. Indeed, the Board has been repulsed by the personal attacks on the President and his family. The uncharitable personal assaults are unworthy of anyone who professes to care about the College and there should be no joy when things do not work out between good people.

Many policies championed by President Nichol are fully embraced by the Board. We agree unflinchingly with the President’s efforts to make William and Mary a more diverse educational environment. His achievements in this area will be the most enduring part of his legacy. We will continue the pursuit with vigor and will insist that all future presidents of the College do as well. We strongly support the Gateway program and will work to put it on sound financial footing by building an endowment that will allow it to blossom. Equally, we continue to see the enormous value that attends to the efforts of internationalization and civic engagement. And, so there is no doubt, the Board will not allow any change in the compromise reached on the placement of the Wren Cross.

The Board is cognizant that its decision will be deeply disappointing to many, especially members of our faculty and student body. Our sacred stewardship and full insight into the affairs of the College convinced us change was necessary to advance the best interests of the College. We understand the sense of loss and will work hard to heal all wounds.

But it is important to remember that William and Mary is stronger and more endearing than any one person or any one board. It will continue to rise and thrive through the ages. She is the Alma Mater of a Nation and the vibrancy of our students coupled with the wisdom and dedication of our masterful faculty will keep the College shining more brightly than any star in the constellation of higher education.

The College will begin a search for a new president immediately. In the interim, the Board will appoint Dean W. Taylor Reveley effectively to serve as President until a permanent leader is found.

Michael K. Powell ’85
Rector, Board of Visitors
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.

Now until March 28

Art Show: “XII by Shakespeare”, Yuri Fedorov
Tue-Sun 11 a.m. - 5 p.m., This Century Art Gallery, 219 N.Boundary St.
“XII by Shakespeare” is a series of paintings by Yuri Fedorov, Ukraine, and it is on display at This Century Gallery now through March 28. A different prospective on familiar characters. You can enter to win 2 tickets to the Shakespeare Festival! Email ayfedo@wm.edu or go to http://thiscenturyartgallery.org/ for more information.

Wednesday, Feb. 20

International Law Society and Conversation Partners: “Foods from Around the World”
5:30-7:30 p.m., Law School Lobby
We are encouraging students to bring foods from various countries to be served in the lobby.
Contact Ima Bassey, ichass@wm.edu, for more information.

Thursday, Feb. 21

Students for the Innocence Project
Speaker, Mike Costa
1-1:50 p.m., room 124
Mike Costa is an intellectual property attorney.
Contact Benjamin Anger, bbang@wm.edu, for more information.

Careers in Election Law
1:1-50 p.m., Faculty Room
Speakers will include:
• Doug Chapman, Director of the Election Reform Information Project
• Jason Torchinsky, Legal Advisor to former presidential candidate Mayor Rudy Giuliani
• Susan Swecker, Chairwoman of the DNC Southern Caucus & Advisor to Hillary Clinton for President campaign.
Contact April Cassell, acassell@wm.edu, for more information.

Election Law Society Symposium:
3:30–5 p.m., room 120
The Election Law Society’s 2nd Annual Symposium is about the presidential selection process. The event will be moderated by Professor Davison Douglas. There will be a reception in the lobby following the symposium.
Contact Kevin Pickens, kpickens@wm.edu, for more information.

Friday, Feb. 22

American Constitution Society Tour of Supreme Court and Capitol Building
For more information, please contact Emily Dodds, ejdoddi@wm.edu, or Darren Abemethy at diaber@wm.edu.

Saturday, Feb. 23

9 a.m.–4 p.m., Courtroom 21
Speakers will include:
• Michele Alexandre, Cecil C. Humphreys School of Law, The University of Memphis, Interrogating the Legacy of Third Wave Feminism: A Look at the First Amendment’s Potential for Providing Protection Against Sexual Profiling in the Workplace
• Susan Ayres, Texas Wesleyan University School of Law, Kairos and Safe Havens: The Timing and Calamity of Unwanted Birth
• Joan Heminway, University of Tennessee Law, Female Investors and Securities Fraud: Is the Reasonable Investor a Woman?
• Kay L. Levine, Emory Law School, Hot Teachers and Hoochie Mamas: Media Constructions of Women Who Have Sex with Boys
• Michelle Oberman, Santa Clara Law School, Deviant Mothers
Contact Catherine Murphy, camurp@wm.edu, for more information.

Bar Bistro Ball
9 p.m., Williamsburg Lodge
That’s right, ladies and gentlemen... it’s that time of year again. Get your formal wear out of the closet. Tickets will be on sale in the law school lobby until they are sold out, and they ALWAYS sell out.

Monday, March 3

Election Law Society Symposium: “How We Vote”
8:30 a.m.–4:30 p.m., Law School Lobby
Stop by to sign up for Bar/Bri, ask questions about the impending bar, or just pick up some highlighters and candy!
Contact Megan Alexander, mealex@wm.edu, for more information.

Federalist Society Guest Speaker: Bob McDonnell
1-1:50 p.m., room 127
Virginia Attorney General Bob McDonnell is coming to speak to our chapter about Virginia politics.
Contact Will Sleeth, wwslee@wm.edu, for more information.

Monday, March 3- Friday, March 7
Spring Break!

Tuesday, March 11

Bar/Bri Table Day
9:30 a.m.–3:30 p.m., Law School Lobby
Stop by to sign up for Bar/Bri, ask questions about the impending bar, or just pick up some highlighters and candy!
Contact Megan Alexander, mealex@wm.edu, for more information.

Federalist Society Guest Speaker: Francois-Henri Briard
1-1:50 p.m., room 137
Francesco-Henri Briard is an attorney who argues before the Supreme Court of France.
Contact Will Sleeth, wwslee@wm.edu, for more information.

Wednesday, March 12

Micro-Mash Table Day
8:30 a.m.-4:30 p.m., Law School Lobby
Contact Satya Baumgartel for more information.

Wednesday, March 13

Grad Day
11 a.m.-4 p.m., Law School Lobby
Check graduation info, complete OCS forms, order caps and gowns and other grad stuff.
Contact Dean Liz Jackson, lajac1@wm.edu, for more information.

Friday, March 14

IBRL Conference: “How We Vote”
9 a.m.-6 p.m., Courtroom 21
Central to our democracy is the casting of votes. The way in which America votes has been changing in recent years with a strong move towards electronic voting methods and the emergence of alternative voting schemes, such as early voting and voting by mail. The federal Help America Vote Act has imposed new requirements on the voting process, such as increasing the accessibility of voting booths to disabled voters, while some state legislatures have imposed heightened voterr identifica tion requirements. This conference will examine some of these recent changes in the way in which we vote in the United States and will consider how to best protect both the integrity and the reliability of our voting process.
Contact Melody Nichols, msnich@wm.edu, for more information.

Saturday, March 15

Ali’s Run
10 a.m., Law School Parking Lot
The 4th Annual Ali’s Run 5k benefits the Alan Buzkin Memorial Bone Marrow Drive. You can register in the law school lobby in the coming weeks. Registration forms are also available by email. It is $15 in advance or $20 the day of the race. Register early to make sure you get a t-shirt. Come out for fun and prizes and support a great cause! All ages welcome.
Contact Aida Carini, arcar@wm.edu, for more information.

Continued on next page.
Rush Symposium Honors Achievements in Health Law
by Tara St. Angelo
Co-Editor-in-Chief

Ever wonder what those large medals are that students wear at graduation? This year four of them will be honoring some of the Benjamin Rush Scholars: 3Ls Julianna Frisch, David Bules, Carrie Boyd, and Joey Noble. The fifth Rush Scholar, 2L Dana Hall, will get to wear his medal when he graduates in 2009.

Each year Professor Donald Tortore chooses the five best papers from his Health Law class to be presented at the Rush Symposium. The symposium is given in honor of Dr. Benjamin Rush, a formative figure in American history. Rush was a member of the Sons of Liberty and collaborated with Thomas Payne on his most famous work, Common Sense. He attended the Continental Congress as the representative of Pennsylvania and signed the Declaration of Independence. Rush was also the personal surgeon of Benjamin Franklin and the surgeon general of the Continental Army.

A different student presented his paper each day of last week. Frisch kicked off the week on Monday with her paper about reconciling abortion laws with feticide and fetal abuse laws. Her conclusion is that all of the abortion cases recognize the value of the fetus, therefore, affirming feticide and fetal abuse laws. However, abortion is a much different scenario than feticide and fetal abuse because abortion involves the balancing of the interests of the mother. This competing interest is not at stake in feticide and fetal abuse laws. Boyd followed on Tuesday with a presentation that concluded that the American government is obligated to provide health care to Native Americans in order to make amends for past abuses. Noble followed on Wednesday with the idea that organ transplantation regulations should be changed to include only medical criteria and ignore geography and time spent on the transplant list. Bules presented on Thursday and posited that the Sherman Anti-Trust Act should apply to health insurance companies. Finally, Hall closed the week with a presentation about kick-backs to doctors from pharmaceutical companies. He concluded that more should be done to abolish this detrimental relationship between physicians and drug companies.

Professor Tortore chooses papers that address novel topics that are essential in the area of health law, and this year was no exception.

The Rush Scholars will also select this year’s Benjamin Rush Laureate.

Upcoming Events

Continued from previous page.

Sunday, March 16
SBA Wine Tasting Trip to Charlottesville 9 a.m–8 p.m.
Do you miss elementary school? Do you miss field trips? Well then the SBA invites you to come on the Wine Tasting Trip with us. We will be chartering a bus to Charlottesville so that we can tour three of Virginia’s finest wineries. The wineries have given us an excellent deal and with the price of the bus, tickets will be $45. The second winery on our trip will be offering boxed lunches; those lunches will need to be paid for in advance and cost an additional $10, but this is optional and you may instead bring your own lunch. We can accommodate as many as 92 students, BUT ONLY the first 56 people to pay will be guaranteed a spot on the bus. If we can get enough people, we will then charter the second bus. So, buy your tickets ASAP.

If you have any questions regarding the trip, please email Meezan Qa-yumi, mqayumi@wm.edu.

Monday, March 17
St. Patrick’s Day
Wear your best green attire and get some matching beer at the Leaf!

Tuesday, March 18
Bar/Bri Table Day
9:30 a.m.–3:30 p.m., Law School Lobby
Stop by to sign up for Bar/Bri, ask questions about the impending bar, or just pick up some highlights and candy!
Contact Megan Alexander, mealex@wm.edu, for more information.

Student/Faculty Mixer Sponsored by the Military Law Society
4–6 p.m., Law School Lobby
Contact Aleena Seifert, arseif@wm.edu, for more information.

Wednesday, March 19
Lunch with Lawyers: Starting Your Own Practice
12:50–1:50 p.m., Faculty Room
Contact Judy Corello, jacore@wm.edu, for more information.

If you would like your event included in The Advocate’s calendar, please email TheAdvocateWM@gmail.com.

News

WM gets a Preview of the Second Amendment Showdown in D.C. v. Heller

by Kelly Pereira
Co-Editor-in-Chief

On Feb. 6, the Federalist Society hosted Alan Gura, counsel for the Respondent in D.C. v. Heller, 478 F.3d 370 (D.C. Cir. 2007), cert. granted, 128 S. Ct. 645 (2007). Gura’s lecture drew nearly a full crowd in room 124 interested in hearing about the case, in which the Supreme Court is considering a Second Amendment question for the first time in almost seventy years.

Gura’s firm is handling the case pro bono on behalf of several plaintiffs including a “Special Police Officer” in the District who is permitted to carry a gun on the job but not at home. D.C.’s strict gun laws require all firearms to be registered but have prohibited the registration of handguns since 1976. Handguns registered prior to 1976 and all other firearms must be either disassembled or trigger locked in homes. Further information about the case and filings can be found at www.dcguncase.com.

Gura’s central argument is that the D.C. gun laws are a functional firearms ban contrary to the individual right to keep arms because there is no exception to the requirement to dissemble or trigger lock firearms for self-defense in the home.

According to Gura, D.C.’s argument is a “sophisticated individual right” argument—there is an individual right to bear arms pursuant to military or government orders. Yet, Gura stated that D.C. is actually “close to agreeing with the Court” for self-defense.

Gura added, “This is a ‘keep,’ not ‘bear arms,’ case.” Gura offered the explanation that the construction of the phrase “to keep and bear arms” indicates that the two terms have separate meanings. To keep is an individual right. To bear is both an individual right and military prerogative (Gura pointed to the fact that both self-defense and hunting were understood to be legitimate practices by the Founders and that the right was guaranteed as a reaction to the British disarmament of the colonists.). Gura continued that the Militia Clause presents no inconsistency with the individual right interpretation of the operative clause.

U.S. v. Miller, 307 U.S. 174 (1939), represents the last time that the Supreme Court considered the Second Amendment. Miller focused on whether a firearm had military utility and whether it was of common or appropriate civilian use. The Court continued on page 10.
Moot Court Team Wins Big at Regent

The William & Mary Moot Court team has done it again. Arpan Sura (2L), Mike Stanton (3L), and David Sella-Villa (2L) took home second place honors at the Regent Constitutional Law Moot Court tournament on Feb. 9. Sura was crowned the competition’s Best Oral Advocate, and Stanton won second place in the Best Oral Advocate category. The team’s brief also earned fifth place honors.

The team’s brief and oral arguments were based on Fourth Amendment and Second Amendment issues. The Fourth Amendment question dealt with whether an officer who lawfully detained an individual immediately outside his house could conduct a protective sweep of the house. The other question focused on whether a statute detaining an individual immediately with whether an officer who lawfully detained an individual immediately outside his house could conduct a protective sweep of the house. The other question focused on whether a statute detaining an individual immediately outside his house could conduct a protective sweep of the house.

The team competed in four preliminary rounds, with Sura and Stanton both arguing each side of the case once. The team was seeded first going into the knock-out rounds. Stanton argued for the petitioner in the quarter-finals, and Sura argued for the respondent in the semi-finals. William & Mary competed against a team from Roger Williams School of Law in the finals, in which Stanton and Sura switched sides for their arguments. They argued in front of a panel of ten judges, including Jay Sekulow and Jan Crawford Greenburg of a panel of ten judges, including Jay Stanton and Sura switched sides for a team from Roger Williams.

The team’s brief and oral arguments were based on Fourth Amendment and Second Amendment issues. The Fourth Amendment question dealt with whether an officer who lawfully detained an individual immediately outside his house could conduct a protective sweep of the house. The other question focused on whether a statute detaining an individual immediately outside his house could conduct a protective sweep of the house. The other question focused on whether a statute detaining an individual immediately outside his house could conduct a protective sweep of the house.

For more information about the competition visit http://www.regent.edu/acad/schlaw/student_life/student-torgs/mootcourt/natComp.cfm.

Charter Day Lauds William & Mary’s Commitments to Public Service

Students, faculty and community members gathered at Phi Beta Kappa Hall on Feb. 9 for the College’s annual Charter Day celebration. This year’s keynote speaker, former U.S. deputy attorney general and alumnus James B. Comey (’82) focused on the rewards of a life of public service. He recognized the difficulties that life can put on one’s finances by saying, “Service offers rewards that can’t be banked but that sure make you feel rich at the end of every long day.”

This year’s ceremony marked the 315th anniversary of the awarding of the Royal Charter from King William III and Queen Mary II of Great Britain that established the College. College Provost Geoff Feiss read an excerpt from the College Charter, and President Gene R. Nichol and Rector Michael K. Powell recognized and applauded several members of the College community for their work and contributions at the College and around the world. College Chancellor and former U.S. Supreme Court Justice Sandra Day O’Connor attended the ceremony as well and added her thoughts about the unique qualities of William & Mary.

A host of awards were given out at the ceremony. David Holmes, a professor of religion, received the Thomas Jefferson Award for his career contributions to William & Mary. Alexander Prokhorov, an associate professor of modern literatures and languages and film studies, received the Thomas Jefferson Teaching Award. Ashwin Rastogi, a senior math and physics major, was awarded the Thomas Jefferson Prize in Natural Philosophy. Wendy Chan, the president of the William & Mary chapter of Students Helping Hondurans, was awarded the James Monroe Prize in Civic Leadership.

Comey, and two other College alumni received honorary degrees. Harriet Mayor Fulbright, president of the J. William & Harriet Fulbright Center, received the doctor of public service, and James C. Rees, (’74) executive director of George Washington’s Mount Vernon, received the doctor of humane letters. Comey received the honorary degree of doctor of laws.

President Nichol closed the ceremony by urging students to look to people like Comey for inspiration in making a true difference in the world.

3L Starks Kicks Butt and Teaches Others to Do the Same at the Self-Defense Seminar

It’s always interesting to see what law students do on their weekends. 3L Victoria Starks is no exception. She is a brown belt and a member of the Martial Arts Club on campus. On Feb. 2 Starks and the rest of the members of William & Mary’s Martial Arts Club taught a seminar on self-defense.

The first segment demonstrated grip-breaks, which involve partners grabbing each other’s wrists and then breaking out of the hold. The second technique involved being grabbed from behind, as a mugger might attack. The defender broke free of the hold, did several offensive moves, and tripped the attacker to the ground before running away. This was one of the highlights of the day. Starks had everyone practice the mugger-thwarting technique repeatedly. With this drill, the movements became closer to second-nature for everyone, and reaction-times improved as well. It was a particularly effective method of learning.

Third, the members demonstrated how to block a knife attack. One very useful part of this technique involves twisting the attacker’s wrist so that he releases the knife.

The final technique taught a method of thwarting a rapist or someone holding one down. The defender threw the attacker off after breaking his nose and ear drums, among other techniques.

Though only a few students came to the seminar, the club had positive feedback from everyone in attendance.

For more information about the Martial Arts Club visit http://www.wm.edu/so/martialartsclub/.

Photos courtesy of Housing Partnerships.

BELOW: Victoria Starks (3L) and undergraduate Valerie Villanueva show off the move they refer to as “the gorilla.”

Krystle Cadogan (1L), Arpan Sura (2L), Andrew Erwin (1L), Carrie Pizler (1L), Thomas Ryerson (1L), and Stephen Van Stempvoort (1L) Housing Partnerships on Saturday, Feb. 3 to help needy Williamsburg residents with basic yardwork. Hats off to them!

Photo courtesy of Housing Partnerships.

ABOVE: Victoria Starks (3L) and undergraduate Valerie Villanueva.
New Dean Brings Experience and a Smile to OCS

After students met with Dean Emily Colby during her interview process, it was clear that she would be a great addition to OCS based on her varied professional experience. Not every student is interested in pursuing a firm job after graduating from Marshall-Wythe, and Dean Colby’s first-hand knowledge will provide insights for students that would like to learn more about alternative employment opportunities that are available after obtaining a law degree. She will also open up new markets for William & Mary law students. According to 3L Andna Via, “She has a vast array of experiences in the legal field, and she is intimately knowledgeable of the legal market in the midwest and west coast.” 2L Alper Ozinali continued these sentiments. “We are excited about the wide range of experience that she will be bringing to the office. She has worked in many different legal sectors and will assist OCS’s efforts to continue to educate students on various career opportunities.”

Dean Colby is also extremely personable, which is important for any student that needs reassurance and guidance while exploring potential job prospects. Students will find that she has the ability to put them at ease when the job search becomes overwhelming. Several students who have met with the new dean have only admiration for her. 3L Megan Tumi said, “I believe Dean Colby will work hard to make sure that students are able to find the job that meets their professional goals.” 2L Leigh Wilson agreed with Tumi saying, “I think Dean Colby will make a great addition to the Office of Career Services. She is easy for students to talk to and she has a wide background of legal experience which makes her very knowledgeable in many different career areas. I think she will be able to offer practical career advice to students and will be able to create useful contacts for career services in a variety of legal fields.”

PSF Auction Breaks Records

This year’s PSF auction saw bigger prizes, bigger acts, and a bigger profit for PSF. Although the numbers are not final yet, PSF estimates that they exceeded last year’s numbers and raised over $21,000 to help students working in public service.

Students who attended the event in Trinkle Hall were greeted with pizza, beer, and a plethora of talented acts. This year the auction featured 2L Latoya Asia and 1L Rob Poggenklass as hosts of the event. They introduced a wide variety of acts that included the Marshall-Wythe cheerleaders, the singing style of 3L Wes Allen and his “Baby Got Back Girls” Sarah Fulton and Kim Rosensteel, the vocal talents of 1L Laura Collins and 2L Brooke Williams, the tambourine banging of 3L Asim Modri, and, of course several piano performances by Nathan Pollard. However, the best performance of the night was Asia’s fall through the separating pieces of the stage. Luckily the host was not injured when she stepped through the crowd as they dressed up in French maid costumes and fed each other cupcakes. They proved that they will do almost anything for a good cause.

Gregory and Kargus Awarded Balfour Scholarship

2Ls Kaila Gregory and Brian Kargus were recently awarded the Balfour Scholarship from the international legal fraternity Phi Delta Phi. The scholarship provided the students with $3,000 to put towards defraying the cost of law school.

Phi Delta Phi is a legal fraternity with chapters in the United States, Mexico, and Canada. William & Mary’s chapter, referred to as an inn, was established on Dec. 5, 1965, as the Jefferson Inn. There are 200 inns worldwide with about 9,000 student members. The Jefferson Inn is an “up and coming” according to Kargus, who is also the Vice-President of the Jefferson Inn. Kargus says that our inn will be applying for the 2008 Inn of the Year Award.

The application for the Balfour Scholarship focused on all aspects of being a law student. The application asked about membership on advocacy groups, journals, and community service organization, in addition to academic information. Gregory says that it was obvious they were looking for “well-rounded and involved” students.

William & Mary’s Jefferison Inn submitted three applications. From there the applications went to the province president, who is a practicing attorney that monitors seven different inns. The applications were then reviewed at the regional and national headquarters. Ten Balfour Scholarships are awarded each year, therefore, William & Mary students received 20% of them! 

Students mingle at the Child Advocacy Law and SBA mixer. From left to right: Maggy Lewis (1L), Erica Brannon (2L), Prof. Dwyer and Melody Bradley (1L).

Photo by Whitney Weatherly, Staff Photographer.
remanded that case for a determination of whether a sawn-off shotgun was of suitable use in service of a militia, but Miller died precluding such a determination.

Gura argued that the military utility test is “unnecessary and confusing.” To his mind, the test should focus on the historical practice of civilians. The D.C. Circuit used a “lineal descent model” to conclude that the D.C. gun laws were unconstitutional. Gura stated that a lineal descent model is appropriate, but argued that it should be construed broadly because the Founders would not have intended only to protect obsolete weapons. Gura ventured further stating that the assault weapons bans are unconstitutional because they are based on artificial features of the weapons—categorical rules based on capacity (such as number of rounds) would be a closer case.

Gura concluded that he is confident that the Supreme Court will find for his clients based on the special status of the home and the interest of self-defense. He also noted that the D.C. gun laws are not representative of most state laws.

Ryan Marion (1L) sells baked goods to benefit the International Law Society in honor of the Chinese New Year in the law school lobby on Feb. 6.

Photo by Whitney Weatherly, Staff Photographer.

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Lest these past weeks amidst the rancor of the obscene art show and the perennial Bules-Shaffer feud was a slightly less public—though equally outrageous—occurrence: Rob Thomas’s The Advocate column impugning the Hospitality House. Now, I’m not usually one to get upset by a man who dresses up as Pee-Wee Herman, but I simply can’t let him get away with it.

First, the Ho House has the best cast of characters of any bar in Williamsburg. Where else can you find Dan “Dance Machine” Leary (3L) tearing up the dance floor while encouraging “Beverly Hills”? Where else can you find Alison “Roll to Me” Stuart (3L), basking in the glory of her one performance in the last three years? Where else can you be sure that you’ll never run into Assim “Guitar Hero” Modi (3L)?

Second, who just wants to sit around all night in a bar where you can only hear the person next to you if he’s screaming in your ear? Not only can you chill out at the Ho House, but you can also get up and sing, or rap, or dance. Heck, you can even be the only one out on the dance floor by yourself late at night, shamelessly doing the hand-down-the-shirt pumping dance that Kurt Wolber (3L) famously treated us to several years ago. Or, you can challenge the formidable trio of Christi Cassel (3L), Bryan Sken (3L), and Carrie Harris (3L) at their trademarked shuffle-board table.

True, the Ho House has had its low moments—the wardrobe malfunction (unnamed 3L) from several years ago comes to mind. And then there was the attempted obnoxious-1L-dude-self-crowning-as-karaoke-master-earlier this year that was valiantly defeated by the concurrent chanting of Jason “Enforcer” Wool (2L) and Mark “Lay Down the Law” Pike (2L). Can you believe some 1L had the audacity to try to take the title of Karaoke King? Special recognition also goes to the 3L women (Tara St. Angelo, Julie Wenell, Jamie Watkins, and Julianna Frisch) who played a vital part in putting down the mutiny.

It would be bad enough if, after going to the Ho House once or twice, Rob disliked it. But Rob conveniently failed to mention that last year he went almost a dozen times. In Rob’s defense, he could fairly claim that he was pursuing several young ladies who loved the Ho House almost as much as Dan Leary loves his Rutgers jacket. But not only did Rob drag himself there, he actually enjoyed it. I’m talking singing along to Eminem. I’m talking cheering the karaoke singers. I’m talking fist-pumping. I’m talking out on the dance floor all night. I’m talking body-wracking sob when the DJ announced that the night was over.

In fact, the man is probably the only law student who can claim to have invented his own Ho House dance, the famed “face-claw.” My sources report that a clip of Rob performing the face-claw has already surfaced on YouTube. No wonder he’s so worked up about the Ho House: it has the potential to sink his future career as the successor to Pee-Wee Herman. No, my friends: Rob Thomas does not really hate the Ho House. What he really hates is his repressed secret love for the Ho House.

My Hospitality House Diatribe: A Response to W.S.’s (3L) Effluvious Praise

American is in the midst of several tumultuous events. The presidential primaries are in full swing, the writer’s strike has rocked significant swaths of the country, and the Ho House is terrible, and karaoke at the Ho House is almost a religion to him, with “Gold Digger” being his renditions of pop-rap songs. As such, I can’t despise the place that much. Can I? Yes, I can. I’ve had decent times there, but mostly because certain females were also present. In other words, I wasn’t there for the ambience or the delightfully rude service. In all other instances, my experiences ranged from “meh” to “you know, ritualistic suicide isn’t such a bad idea . . . .”

I listed some obvious reasons why the Ho House is so wretched in my last column (which drew Sleeth’s ire and, subsequently, his piece above). Namely, the drinks are overpriced, the service is an utter joke, listening to drunk students and natives butcher songs is decidedly unpleasant, and there is always a line in the lobby for no apparent good reason. These evident gripes alone should deter anyone from giving that place a second glance, but there are other, more subtle reasons why the Ho House does not deserve your social time or money.

First, the HoHouse is a mildly visible social option on only one night of the week: Friday. That’s it. The Ho House is invariably a ghost town every other night. Conversely, it is wholly possible to get a handful of friends together at the ‘Leafe on any given night and have a blast (especially as a 3L). Sunday Mug Nights, burger/beer night on Mondays, Virginia Beer Night on Tuesdays, Wine Night on Wednesdays, and typical Thursday through Saturday night shenanigans provide an entire week of options, at just one W.S. performing at the Ho House. Photo courtesy Will Sleeth.

venue. Conversely, Saturday through Thursday nights at the HoHouse could be called “Sitting by Myself with Random Travelers Nights.” Pitiful.

Second, the Ho House is a hotel bar. Let me repeat this: the Ho House is a hotel bar. Seriously, we are all too cool for hotel bars, and that is saying something considering that we’re law students. Hotel bars are only acceptable when traveling with a large group of friends and nothing else is open in whatever town you happen to be in. They are certainly unacceptable as local hotspots, even in Williamsburg. Leave hotel bars to lonely business travelers and high school kids with fake IDs trying to escape their parents’ grasp during family vacations.

Believe me, I could go on, but unfortunately I have to keep the word count in this piece to a reasonable level. I think you get my point anyway. It’s great that Sleeth and others are able to have such a good time at the Ho House, but it’s simply not my cup of tea, and by cup of tea, I mean cup of rat bile. No matter what side you’re on, though, hopefully this point-counterpoint piece will divide the law school into two intractable factions, each hurling sputtering arguments and low-blow insults at one another. I know, we can call them red students and blue students! I am a genius.
LONDON—The Advocate has learned that a certain 3L—we’ll call him Noey Joble so as not to reveal his identity—was spotted across the pond two weeks ago, canoodling with a member of the opposite sex over tea and crumpets.

While the 3L wishes to remain nameless—actually The Advocate fears his inevitable drunken rage should he be outed by us!—he certainly wasn’t being discreet as he gallivanted about Abingdon and pranced around Piccadilly Circus, his lady in tow.

He and his lover allegedly painted the town red, clad in wool scarves and mittens, putting their sight-seeing on hold only for spots of Earl Grey and the occasional warm beer. Grey skies and a slight chill didn’t stop this Noble sire and his lady friend from hitting all the tourist spots historic London has to offer, our sources tell us.

Walking barefoot across Abbey Road? Skipping through Trafalgar Square? Posing with a portrait of the late Princess Diana at Buckingham Palace? Snapping photos of the famous Tower Bridge? The Advocate’s sources tell us he did it all. One tourist even stated that our Noble gentleman was seen giggling with glee outside of Beckham’s English residence. Another witness reports that Noey may have even shed a tear admiring Princess Diana’s memorial. Good thing his sweetheart was there to cheer him up!

According to those who followed the romantic escapade closely, the only blotch on an otherwise perfect weekend came when Mr. Joble had a few too many (two) lukewarm pints and threatened to smash the stained-glass windows of the hallowed Haberdasher’s Arms Pub in a seemingly unprovoked rage.

According to one woman on the scene, “He kept screaming ‘Baby! Baby!’ at the girl that was with him. Eventually some customers complained, prompting the bouncer to ask him to tone it down. Apparently, the American bloke didn’t appreciate the reproach, and that’s when he shoved a bartender and almost threw a chair through the beautiful windows. It was a real row.” Our Daniel Radcliffe was soon escorted from the scene.

But one blemish couldn’t stop this bodacious barrister from living it up in the land of America’s greatest ally. “He truly handled himself like Nobility,” one Londoner told us. Commenting via email, another tipster noted, “He made Americans appear Noble again. We all wished he wasn’t constantly snuggling with his special someone.”

When The Advocate contacted his closest friends for comment, none of them seemed to have the slightest idea he was overseas. His shortest, balding friend didn’t even realize he had a girlfriend! “Apparently she lives in New York,” one of his glasses-clad mates informed us. “But none of us have ever met her.”

No need to hide your love from your friends, oh Noble one, especially when you’re parading around Westminster without a care in the world! The Advocate has also learned that an engagement could be in the future for this jet-setting couple. If so, congratulations! We hope we don’t have to find out through the grapevine this time!

Editor’s Note: The Co-Editors-in-Chief of The Advocate apologize to the author for omitting this piece from the previous issue of The Advocate, published Feb. 6, 2008. We also apologize to the law school community for depriving them of this timely bit of news.
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standing on the steps of the pres-
ident’s house last Tuesday, Feb.
12, President Gene R. Nichol
looked out over the sea of students and
spoke words that echoed with pain,
frustration, and loss.

Nichol looked out into the throng
of thousands and spoke words that rang
with hope that life would continue at
William & Mary and that the ideals
and the values for which he fought
would not be forgotten.

Nichol looked at the shadows that
the candles cast across the faces of
undergraduates and graduate students,
black students and white students, Jew-
ish students and Christian students, and
saw an assembly of mourners steeling
themselves against the harsh reality of
life after Nichol.

Nichol looked at the tears of stu-
dents who came to William & Mary
to fight? Who could have predicted the
bribe an outspoken supporter of civic
Board of Visitors for his silence, a move that has
rendered the recent decisions of the
decision-making process. He refused
to take hush money and power. How ironic it is that
he saw an assembly of mourners steeling
themselves against the harsh reality of
life after Nichol.

Nichol looked at the tears of stu-
dents who came to William & Mary
to keep fighting for all that was right
keep the dream alive. He told students
and his successor, Dean W. Taylor
Reveley, about what it means to be a
citizen lawyer amid the temptations of
bigots and reactionary ideologues,
and he saw a student body that felt
powerless against the monolithic uni-
lateralism of the Board of Visitors.

Never in the institution memory
of our contemporaries here at William & Mary has there been such a clash
of ideology, such a subterfuge of the
accepted order of things, and such an
overly political battle as the rise and
fall of President Nichol, now Professor
Nichol. Instead of going quietly into
the night, the victim of Republican
Bush Administration, unfortunately has
lived a life after Nichol.

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Editorial: Nichol’s Last Stand

by Alan
Kennedy-Shaffer
Features Editor

For such a small college, but a good
college, William & Mary has certainly
attracted a great deal of dedicated and
talented individuals willing to lead
with virtue. One of those individuals
was the 26th president of this historic
university.

Rector Michael Powell, a man best
known for his pro-monopoly rulings as
chairman of the Federal Communica-
tions Commission and for being the son
of a tragically deceived casualty of the
Bush Administration, unfortunately has
lived a life after Nichol.

When he read Nichol’s campus-wide
message on Tuesday morning, Powell’s
first instinct was to attack Nichol for
shining a spotlight on the secret deci-
sions and negotiated bribes that have
rendered the recent decisions of the
university’s governing body incom-
prehensible.

Another controversial president
might have accepted the hush money
and exited the stage into the alley
without a final farewell to his devoted
fans. But not Nichol. He made one
last stand and left the students and
faculty stunned by his candor and his
courage. He stood up in front of the
president’s house and told students to
keep the dream alive. He told students
to keep fighting for all that was right
with his presidency.

Although outwardly restrained and
diplomatic, law students recognized
Nichol’s desire for justice and due
process. We saw in Nichol a once and
future Marshall-Wythe constitutional
law professor who generally made the
right decisions, his public relations
mistakes notwithstanding. We saw a
popular president who conscientiously
reached out to students and attended al-
most every major event at this College.
And we saw a man destroyed because
of the backward views of a vociferous
group of outsiders and extremists.

More than three out of every four
law students wanted Nichol to be
renewed, as my survey on Nichol’s
presidency revealed. More than two
out of three law students supported
Nichol’s decisions about the Wren
cross. And more than three out of four
law students felt that the College was
headed in the right direction under
Nichol’s leadership.

We particularly liked Nichol’s
leadership efforts in the area of civic
engagement, efforts that brought
Nichol to the law school on multiple
occasions for speeches and discussions
with his successor, Dean W. Taylor
Reveley, about what it means to be a
citizen lawyer amid the temptations of
money and power. How ironic it is that
the Board of Visitors would select as
the interim president one of Nichol’s
good friends and a fellow traveler for
the citizen lawyer cause.

As a contributing writer to The
William & Mary News, I have written
many stories in support of Nichol’s
initiatives and have watched the storm
clouds swirling around Nichol over
the last six months. Although I can-
not divulge particulars about Nichol’s
public relations strategy, I can say that
I advocated for Nichol to go on the
offensive and respond to his detrac-
tors. To that end, I pushed the civic
engagement angle and proposed that
Nichol take a stand.

Perhaps Nichol waited too long
to respond to his detractors. Perhaps
 Nichol did not adequately address viral
concerns within the body politic about
his decisions concerning the Wren
cross, the College’s logo, and the Sex
Workers’ Art Show. Perhaps Nichol did
not make a strong enough case for his
program of engagement, progressive
reforms, and increased diversity.

But at least he took a stand.
Nichol’s last stand is one for the
history books, the embodiment of a
progressive president felled by the
axe of bigotry and extremism at a time
when the College was busy moving into
the twenty-first century. As we move
forward, we must not surrender our
ideals. We must not give in to those
who would have our most important
decisions made behind closed doors
with little transparency and account-
ability.

Seeing all those students from all
walks of life press tightly into the
area behind the president’s house and
the Wren Building on Tuesday, Nichol
must have felt enormous hope. He was
right to make one last stand.

We would do well to heed his final
message: “The values of the College
are not for sale.”
The Art of Administration: A Consideration of Our Poster Policy

by Jenny Kane 
Arts Correspondent

Facts: At approximately 8:30 a.m. on Monday, Feb. 4, the day of The Sex Workers’ Art Show, a law student hung three posters at the law school advertising the evening’s performance. The student hung two posters on the outer, front glass doors of the law school building. The student also hung one poster inside the law school lobby on one of the glass doors that lead out to the central patio space. The student’s intent was to advertise the event, scheduled to occur that evening in the University Center, to the law student population—that is, to put those students and faculty who did not know about the show on notice of its occurrence and to remind students who may already have heard about the show by some other method that the show would in fact occur that very night.

A few minutes after 10 a.m. the same morning, another law student who was doing homework in the lobby took notice when an administrative dean of the law school entered the lobby and then removed the three signs, one after another. When the student who had hung the posters on the doors learned that the posters had been removed, the student assumed she must have been in violation of some law school policy she had not been aware of before hanging the posters. Thus began an inquiry to learn what the posting policy at the law school is, where it is stated, and why the posters advertising The Sex Workers’ Art Show had apparently violated the policy.

Procedural History:

My knowledge of the policy and its history derives from my own research, as well as information fellow students, faculty, and administrators reported to me upon my request.

According to several different faculty members, the need for a poster policy or any regulation of the hanging of posters at the law school arose a few years ago in response to a practical concern that there were simply too many posters in too many places at the law school. In response to this problem, which one can imagine raised concerns about aesthetics, economics (in terms of the extra time needed to remove signs), and maybe even safety, the law school administration published a policy “reminder” every few weeks in The Docket. On Feb. 4, the day that the student hung The Sex Workers’ Art Show posters on the law school glass doors, the poster policy at the law school, as stated in The Docket was the following:

“Flyers are not to be placed on any wall or door. You may place flyers in the student lounge (except the wood doors) and on the front doors of the building ONLY ON THE DAY OF THE EVENT. Please be sure to remove the flyers after your event.”

When a student asked one administrative figure at the law school what the poster policy was, the administrator’s answer conformed with the policy as stated in The Docket, emphasizing that one did not need to attain pre-approval or permission in advance, and that the sign must be hung on the day of the event, or after 5:00 p.m. on the evening preceding, and removed as soon as the event was over.

When a student asked Dean Jackson what the poster policy at the law school was, Dean Jackson printed out the same lines from The Docket as re-printed above here. Dean Jackson further informed the student that implied within the policy was the rule that only posters that advertised law school events were permitted. When I asked Dean Jackson what the poster policy was, she repeated the same statement regarding law school events, adding also that students have advertised events on blackboards in classrooms (which are permissible if professors do not require the space the notices occupy), and that anything students feel worthy of advertising can be advertised on the Student Lounge walls or windows.

After I asked where students could read these elements of the poster policy, Dean Jackson replied that the posting policy for the front doors of the law school was always and only for daily law school events, upon the Dean’s request. On Friday, Feb. 8, the day following my conversation with Dean Jackson, and four days following the removal of The Sex Workers’ Art Show Posters, a new statement of the poster policy appeared in The Docket. According to Volume 23, Edition 11 of The Docket:

“Flyers advertising Law School events are not to be placed on any Law School wall or door with the following exceptions. On the day of the Law School event, flyers advertising the event may be posted on the front doors to the Law School. And, flyers may be posted in the student lounge (except the wood doors) and on bulletin boards managed by the student organization sponsoring the event. Flyers must be removed after the event.”

Issue:

Did The Sex Workers’ Art Show posters hang on the glass front doors of the law school comply with the poster policy as stated in The Docket at the time they were hung on Feb. 4? Would the posters have complied with the poster policy as printed in The Docket on Feb. 8?

Holding:

Yes, when the student hung the posters on Feb. 4, the posters were hung on the front doors of the law school building on the day of the event. The student, therefore, certainly appears to have complied with the policy as stated in writing prior to Feb. 8. It is possible that by the letter of the law of the policy as stated in The Docket before and after Feb. 8, any posters hung on the glass doors leading out to the patio are not permitted. Whether the posters would have complied with the policy as stated in The Docket on Feb. 8 hinges on the interpretation of “Law School event,” and under whose discretion the interpretation of this language occurs.

Reasoning:

First, a short prelude: why does this issue belong in The Arts Brief? After the most recent game of musical chairs (or was it Russian roulette?) in the College’s and Law School’s administrative leadership, it seems important to acknowledge that the administration is more than fundraising, big-whigged presidents and individuals who assume the nominal all-star roles in the university hierarchy. Administration, including the administering of and administering to that occurs on a daily basis, if not minute-to-minute basis, both behind closed doors and in our hallways, hanging files, newsletters, and inboxes, is an art form. It is the subtext to our lives as students of this Law School and as members of the larger university community; we may not sense its touch, but oh how the bureaucracy, decisions, votes, and shuffling of policy pervade! This is not to suggest that a university or a law school for that matter could or should be run without bureaucracy or without administrators, for that would most likely be impossible. These are the individuals who make many of the decisions that impact us most regularly, whether it be a scheduling issue, reserving a room for an event, or selecting furnishings. We need administrators; we need deans; these are the quotidians custodians of our progress toward graduation, the keepers of records and rules.

This said, like all artists, administrators must have a necessarily complicated relationship with their medium and audience—the school and its students. There are in fact instances when the administrative machinery gets caught up; one of its cogs comes loose or gets stuck. This inquiry into the poster policy of the Law School presents such an instance; we realize that the machinery is not so well-oiled and in tune as we take for granted. You might be surprised, as one professor I spoke with was, when I told him an administrator had removed these signs. Was that really her right; was it her duty? You might even be surprised, as this professor was, that there was any policy in place, and even more surprised that the place to find this policy is in The Docket in between marriage announcements and job listings. You might be concerned that, in my understanding, the restriction of the use of the front doors for Law School events only, while it may have “always” existed implicitly, does not seem to have existed in a written form until Feb. 8 of this year. How, one could ask, should students comply with a policy that was never in writing for them to read and have notice?

Now the policy does exist in writing in The Docket. Students in the future can and should comply with the policy when posting for events. At the same time, the administration should enforce the policy, as written, with equal application to all the groups, individuals, and posters to which it applies. It seems apparent to me that The Sex Workers’ Art Show posters did comply with the policy that existed in writing at the time they were posted. The posters were hung on the morning of the event advertised, and would most probably have been removed...
The newly published policy raises the issue of interpretation of the phrase “Law School events,” an interpretation that we as students should consider. While it would be impractical to allow any event or organization to advertise on the front doors of the law school, should the policy be as narrowly drawn as to limit advertising to events occurring in the Law School building itself? What if a barbeque or blood drive occurs in the parking lot or on the front lawn? What if a community service event is set to occur beyond the grounds of Marshall-Wythe?

More significantly at issue is the question of College events, such as The Sex Workers’ Art Show, that may not occur under the sponsorship of a Law School group, or in the law school building, but that should be and are attended by law students and faculty. Sure, we are fortunate to have the student lounge space, as well as email announcements, but what about the front doors? Perhaps no one should post signs there, one could suggest, if we want to honor safety and aesthetics. But the law school is not an island. How can we negotiate our insularity from the College and from the other graduate school programs? I offer no solutions; I only hope to start a conversation. I hope for a poster policy on its face and in its interpretation that best serves the interest of the community, and I encourage us to demand the administration’s artful—honest and equal—application of that policy.

Hey 3Ls: Send us your photos for our special graduation issue!

Any fun photos that you and your friends want to see printed will do.
Send photos to: theadvocatewm@gmail.com Deadline is April 1, but the sooner the better!