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AMICUS CURIAE

AMERICA'S FIRST LAW SCHOOL



VOLUME II, ISSUE TWO

MONDAY, SEPTEMBER 16, 1991

TWENTY PAGES



Retired U.S. Supreme Court Justice Lewis Powell (center) visited Marshall-Wythe last week. Here he is shown hobnobbing with Prof. Rod Smolla (left) and Prof. Stephen Wermiel (right).

Greg Brummett

Three women attacked

Two graduate students victims of attempted rape; city resident accosted and chased

By HEATHER SUE RAMSEY

Police are investigating the attempted rape of two female graduate students and an assault on a female city resident.

On Friday, September 6, at 4:30 p.m., an unknown assailant attacked a female graduate student in the parking lot adjacent to the Williamsburg-James City County courthouse. The following day, another student was attacked as she approached her apartment off Capital Landing Road at about 8 p.m. On Sunday evening at around 12:30 a.m., a female city resident parked her car on Prince George Street and was chased into a nearby

dormitory by a man who emerged from the bushes.

Both student victims gave similar physical descriptions of their attackers: a light-skinned Black male, approximately six feet tall, wearing black shorts and a baseball cap. The third victim described her attacker as a tall, slim Black male.

On Sunday afternoon, September 8, Vice President for Student Affairs W. Samuel Sadler had notices describing the first two incidents posted prominently

See ATTACKS, page 20

Supreme Court Preview will analyze next Term's cases

By WILL DeVAN

The Bill of Rights Institute will host the Fourth Annual Supreme Court Preview on Friday and Saturday, September 27-28. The Preview provides an interesting look at the issues the Court will decide in the coming term through a series of panel discussions, seminars and moot courts open to the entire student body.

This year's Preview will feature fewer cases than previous years', however the previewed cases will be some of the most important to reach the Court in several Terms. Moot courts will examine cases in which the Court is expected explicitly to overturn the *Lemon v. Kurtzman* test, which has governed constitutional analysis in state-church relations, and a case in which the Court will consider the constitutionality of so-called hate speech for the first time.

"The Preview is one of the best ways to get a feel for the tough and important cases the court will be deciding this year from people who not only know the law, but who also know the Court and its players," said Prof.

Stephen Wermiel of the Bill of Rights Institute.

Of additional interest will be discussion of cases involving the application of civil rights laws to bar Operation Rescue from anti-abortion protests and the First Amendment implications of "Son of Sam" laws barring convicted criminals from receiving royalties on books about their crimes.

Additionally, the Court will decide whether federally mandated warnings on cigarette packages pre-empt state product liability laws. Also examined will be three cases in which the Court will try to define when states may be relieved of court supervision relating to school desegregation.

The Preview will feature panelists who "know the Supreme Court better than anyone in the country" according to Professor Rodney Smolla, who will serve as moderator of the event.

Among those attending will be Suzanne Sherry from the University of Minnesota, author of *A History of the American Constitution*. Prominent journalists who will participate are Ruth Marcus

of the *Washington Post* and Bruce Fein of the *Washington Times*. Smolla noted that these journalists cover the court every day and said that "the mix of journalists and law professors makes the

sessions particularly lively."

One new feature will be a panel discussion on the confirmation hearings of United States Supreme Court nominee Clarence Thomas. This panel discussion

will provide a critique of the Senate's proper role under the "advise and consent" clause and a discussion of how the theory and practice of confirmation hearings actually works.

College bails out bankrupt SBA

SBA foregoes future revenues; directory may not appear

By KEVIN KRONER

The big question around Marshall-Wythe lately has been, "Will SBA members be gaining any personal experience in bankruptcy law?" According to reports from the Student Bar Association meeting last Wednesday, the answer is almost, but not quite.

According to President Richard Brooks, the SBA very nearly ceased to exist financially, due to a \$6,000 debt owed to Colonial Williamsburg (CW). As of Tuesday evening, there seemed to be no alternative but to shut down all operations. By 11:00 a.m. on Wednesday, however, Brooks and Ken Smith, Dean of Student Activities, had worked out an agreement which will keep the SBA running.

Details of the agreement are not fully available, but it involves the College paying the remainder of the debt to CW and deducting it from the money the SBA would have received from next semester's student fees. Brooks said that while he is satisfied with the agreement, it does

not eliminate the SBA's budget problems.

One consequence of the budget debt will be a change in the business relationships between the SBA and CW. Representatives from CW have said that if the debt is paid in full this month, the foundation will continue to do business with the SBA in the future. However, in the future CW will require a deposit of up to 75% of the cost of any scheduled event.

At Wednesday's meeting, Brooks urged SBA members to come up with creative fund-raising ideas. Because of the agreement reached by Brooks and Smith, all of the usual law school functions, such as Fall from Grace and Barristers' Ball, will be held this year. However, all SBA functions will have to be planned with extra care. Brooks said that every SBA activity will have to operate at a profit this year.

Many questions regarding the budget problems remain unanswered. Both Brooks and SBA treasurer Stephanie Cagin (3L), expect the ongoing audit of SBA

finances to answer many of them. Results of the audit are not expected for another week.

One likely casualty of the budget crisis appears to be the law school directory. Brooks said that the information used in compiling the directory will not be available until at least Friday, and it will take at least another four to five days to get the book printed.

Brooks suggested to the SBA that instead of spending \$400 on the free directory, it would be wiser to ensure that all law students receive a copy of the campus directory. Those directories are scheduled to be distributed during the first week of October.

According to Brooks, the campus directory offers more complete information, including students' permanent addresses, as well as information on faculty and staff for the entire campus. Although the campus directory was not made available to Marshall-Wythe students last year, Brooks has been assured that the College will provide the book to all law students this year.

Inside this issue

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• Former Wilder aide laments. Page 3.

• First Amendment on trial in San Francisco. Page 7.

• Miss Demeanor returns! Oh, joy! Page 10.

Out of our heads

Is it time to sue?

Most law students would probably agree that the reason the parking situation irks us so much is that many aspects of it seem unjust. For example, before first-years arrived here they received literature that made owning a parking sticker seem like a good idea. So they bought stickers by mail, or during orientation, only to discover later that the \$50 stickers were virtually worthless.

Likewise, other law students who made the wise decision not to buy stickers have recently been outraged to learn that (1) cars parked on campus without a sticker can be ticketed at *any time*, not just before 5 p.m., and (2) any student who receives a ticket is automatically required to purchase a sticker.

It seems wrong for Parking Services to try to trick, bamboozle, or coerce law students into shelling out \$50 for stickers they don't need. Fortunately, in a society founded upon law, if something *seems* wrong, it may very well be wrong. Perhaps the law can protect us. Perhaps we should sue.

You don't need a lawyer to sue Parking Services, especially if you're a law student. Just draw up a complaint and file it *pro se* and *in forma pauperis*. Like Legal Skills.

You don't need to go hunting for fancy legal theories, either. Look at the way Parking Services duped first-year students, for example. Is that misrepresentation? Deceptive advertising? Or just out-and-out fraud? And if you're required to buy a sticker because you parked in a vacant parking lot at 1 a.m. without one, you've got plenty of arguments, too. Like breach of contract. Or deprivation of property without due process of law. Or the creation of administrative regulations *ultra vires*. Just pay careful attention to Federal Rule of Civil Procedure 11 and its Virginia equivalent, § 8.01-271.1, and you should be fine.

So go ahead. Add to the litigation explosion. If you do, we might actually get some attention around here.

THE AMICUS CURIAE

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We cannot print a letter without confirmation of the author's name. We may, however, withhold the name on request.

Letters over 500 words in length may be subject to copy editing for the sake of space and clarity.

From the Editors' desks...

My mother always told me that the best place to find a helping hand is at the end of your arm. In the wake of the recent assaults on two female graduate students, the Marshall-Wythe community has learned the wisdom of mom's adage.

To give credit where credit is due, Vice President for Student Affairs Sam Sadler did inform the community of the attacks within 48 of the first occurrence. The question now is what, if anything, the College will do to increase safety for its students.

Aside from circulating a memo to Campus publications requesting that we inform students that the crimes have been classified as attempted — not

actual — rapes, Sadler's office has been notably silent. The only effort most law students have seen on the part of the Campus Police has been the ticketing of student cars parked in the Common Glory parking lot at last Friday's Lake Matoaka party.

The students of this school, particularly Kate Atkins and the Campus Safety Committee, should be commended for their efforts to increase safety for the women at Marshall-Wythe. In the past week, a number of men in the school have come forward to offer escorts for women leaving the building at night, and proposals for forming an escort service have been discussed.

Obviously, the ideal situation

would be for the College to have an organized escort program, but that doesn't seem to be much of a priority for the folks over on the main campus. Until those priorities change, law students will need to keep looking out for each other.

The current situation is an awkward one for both sexes. Some women don't like to admit they're frightened, and some men worry about inadvertently implying that women can't take care of themselves. It's time to put those feelings aside and recognize that any one asking for, or offering, an escort is not making a value judgment, but rather, trying to avoid another tragedy on this campus.

Letters

To all M-W students:

Cyclists beware! Fascist park rangers are on the loose and they want your money. The Colonial Parkway is the hunting ground and student cyclists are the prey. What follows is a true story:

I was on a leisurely bike trip last week with a classmate, Lisa Brook, on a route that is quite common among cyclists at M-W. It involves riding down Necko-Land Road until it ends just short of the Colonial Parkway. At this dead-end is a side street which has three houses on it. The street is about 100 feet long and it ends at the entrance of a Parkway maintenance area. Between the last house on this street and the maintenance area is an open, grassy area leading to the Parkway. The land is open and not obviously part of anyone's yard. It is roughly 150-200 feet from this street to the Parkway.

Whenever I plan to go riding to Jamestown Island, I take this route. A fellow M-W student showed it to me last year and I have used it many times, always without event. Today would be much different.

As my friend and I crossed the grass, we heard someone yell something unintelligible. When we reached the Parkway, we saw a Park Ranger car, with its lights flashing, moving out of the maintenance area. The Ranger pulled the two of us over and asked for some identification. I thought that perhaps some insane law students on bicycles had escaped from Eastern State Hospital.

Yogi Bear then told us that there was a no trespassing sign back there, and that it meant what it said. I told him, as politely as I could, that I thought it referred to the maintenance area. Ranger Ralph shook his head and looked at our IDs.

After looking at both of them, he looked up at me and said, "You're Lisa S. Brook?"

I have to admit that I was so dumbfounded by this stunning display of mental handicap that Lisa had to straighten out this

perplexing situation, "I'm Lisa Brook, he's Kevin Kroner."

At this point I figured that this doughnut connoisseur would give us hardened criminals a stern talking to and send us on our way. Instead, he asked for our local addresses and radioed into Ranger Central to verify them. It was at this point that he pulled out his ticket book and started filling in two tickets.

I was amazed that this fat-boy would actually write us tickets for crossing 150 feet of open grass. Lisa felt the need to do little grovelling, "Please sir, we won't do it again."

"I know you won't do it again," laughed this obese warrior of the wilderness.

Around this time, another rotund ranger pulled up in his squad car. I guess two law students on bicycles is more than one fascist pig can handle.

I still wasn't that angry, although I was somewhat surprised that Yogi could keep himself away from chocolate eclairs for so long. I figured that, since this wouldn't be a moving violation, it couldn't possibly be too expensive. I'm thinking 10-15 bucks, tops.

Imagine my shock and dismay when this portly protector of the parks informed us that the fine for trespassing was \$35.

To make a long nightmare short; I paid the fine, Uncle Sam is \$70 richer (so much for the deficit); and I promise to be a good boy from now on. However, I do have a message for all of you outlaws: There is a corpulent constable of the common looking to part you and your money—and his name is Ranger Ewell.

Kevin Kroner (2L)

To the Editor:

I relate the following incident as a warning to all on the William and Mary campus in the hope that the dangers engendered in the attitude I encountered can be avoided. The incident I refer to was a conversation (argument)

which took place at the PDP graduate party at the Student Center last Friday.

A graduate student in the business college related a "funny" story about a friend of his. His friend, a student at another Virginia school, had gathered a few fraternity brothers for a night of fun. The man went to a school party to pick up a girl. He brought her back to his apartment and induced her to perform oral sex on him. The woman, however, was unaware that hiding in the closet were the man's fraternity friends. She discovered the "prank" only when the friends in the closet began to laugh about the "joke."

The graduate student defended the friend, stating that the woman had no respect for herself, having agreed to having sex with someone she did not know. How could she be damaged? So what if she was tricked into being the subject of a voyeuristic experience? What was the difference between this episode and one in which a guy relates his "conquest" the next day to his friends? How was oral sex any different than her kissing him at a party? Further, this man saw no difference between a man watching a woman perform oral sex on himself and other fraternity people watching her perform oral sex.

This woman was to blame. She had, after all, agreed to go to a stranger's room, and was on "his turf." This was just like agreeing to have sex in front of 50 people when 51 people were in the room. The man was not at fault, for she had "asked for it."

No other adjective, besides perhaps "demented", so well defines the outlook this student has.

I write to warn all students, male and female alike, that this perverted attitude exists. This attitude is the same one which puts a woman victim on trial during a rape case. It is the same one which allows date rape to

See PERVERTED, page 8

Wilder aide recounts her trip down road to disillusionment

By BRIAN GOLDEN

Laura Dillard, former press secretary to Governor L. Douglas Wilder and a 1987 graduate of the College of William and Mary, visited campus last Wednesday to speak at the College's "Town and Gown" luncheon. In her first public remarks since returning to private life, she delivered a bitter attack on her former boss exactly twenty-four hours before he announced his candidacy for the presidency of the United States.

Dillard recounted the events leading to her meteoric rise in Virginia politics and her eventual unhappy departure from the governor's office. She was at William and Mary, she explained, neither to offer a "kiss-and-tell" version of her days at the

state house, nor to give a "Polyanna view" of the Wilder administration. She said her intent was to deliver a "respectful but truthful" commentary on her experience with the state's chief executive.

"He [Wilder] has accepted and encouraged the national spotlight, and everything he does now is judged in a national context," Dillard said. According to her, this spotlight has led the administration to focus only on matters of interest to the national media. As press secretary, she said, it was clear that the national press corps was "uninterested in rural development," or in many of the other less

See AIDE, page 20



W&M alum Laura Dillard, Governor Wilder's former press secretary.

Hal Halbert, The Flat Hat

Attorney General Mary Sue Terry to speak next Monday

By NATALIE GUTTERMAN

Virginia Attorney General Mary Sue Terry will address the student body of Marshall-Wythe on Monday, September 23 at 4 p.m.

First elected Attorney General in 1985, Terry is the only woman ever to hold an executive position in the Commonwealth of Virginia. She was reelected in 1989, receiving more than one million votes, an unprecedented number for any candidate in Virginia's history. Prior to her successful bids for statewide office, Terry served

five terms in the House of Delegates.

During Terry's six years as Attorney General, a variety of highly publicized, politically charged issues have come before the Attorney General's Office, including the legality of the all-male admissions policy of the Virginia Military Institute, the prosecution of Lyndon H. LaRouche, and the First Amendment implications of a case involving a fraternity which violated the civility code of George Mason University. Under Terry's direction, the Attorney General's Office has

won seven of nine cases argued before the United States Supreme Court, the most successful record of a Virginia Attorney General in over 40 years.

Terry is expected to run for Governor in 1993 and is already being touted by some observers as a likely Democratic prospect for the national ticket in 1998.

Terry, who holds a bachelor's degree from Westhampton College at the University of Richmond, received both her Master's Degree and her J.D. from the University of Virginia. She is a former

President of the National Association of Attorneys General and the first woman ever to hold that position.

Terry was invited to Marshall-Wythe by the William and Mary Law School's Speaker's Forum, a newly formed committee chaired by Dee Cohen (2L).

The Forum plans to host at least two speakers a semester. The committee includes faculty advisor Dave Douglass, and students Elizabeth Dopp, Rob Barbour, Robert Dickinson, Brian Golden, Patty Erikson, and Richard Brooks.

Student lobbies for loans to cover computer purchases

By JOHN FERNANDO

By now all Marshall-Wythe students, including first years, are familiar with the difficulty of obtaining a functional computer in the library, especially prior to a major memo deadline. An essential aspect of each law student's tenure at William and Mary is the use of a computer. Yet students are currently unable to obtain funds from traditional student loan sources to pay for the purchase of a computer.

Vanessa Elliott (3L) is trying to do something about the problem. Disappointed with the computer lab, she has been lobbying the administration for support in making funds available so each student will be able to purchase their own computer. "I know that at Columbia's law school, students are able to receive up to \$4,000 through a Law Access Loan for the purchase of a computer," said Griffith.

The major barrier to approval of an LAL loan for computers is the official school expense budget. Before LAL or any other student loan program will lend money, it must determine that the funds are needed for educational expenses. This determination is based upon a budget prepared by the school that must be approved by the Department of Education. Currently the cost of a computer is not included in

the student budget at William and Mary.

Many students agree that a computer is necessary part of law school. The library's computer center houses twenty computers and six printers when fully operational. "There certainly is a need considering that there are only 20 computers for 600 students," said third-year Richard Brooks, Student Bar Association president. The lack of computers, combined with the new system that charges students for using the laser printers, has been extremely frustrating to many students. "When the printer jams or has a misfeed you get charged anyway" said Griffith. Griffith also pointed out that the large number of students using the relatively few computers now available contributes to the infiltration of viruses. As a benefit of ownership, Griffith cited the home use of Lexis and Westlaw; both computer research services made available without charge to students who have a computer equipped with a modem.

Brooks has been working with Griffith on convincing the administration that the student budget should be changed to reflect the cost of a computer. Griffith recently drafted a proposal outlining the need for computers and the benefits of adding the cost of a computer to student

budget allotments. The proposal was presented to Dean Sullivan last week who "responded in a positive manner," according to Brooks. Griffith has also contacted LAL representatives who said they would have no problem loaning funds for a computer if

the expense is included in the approved budget.

Before any budget change can be adopted, it must be approved by Ed Irish, director of student financial aid, on the undergraduate campus. If Irish approves the change, final approval must be

obtained from the Department of Education. "Considering that this financial layout is used by another law school, I see no reason that it would be disapproved," Griffith said. Dean Sullivan is expected to present the proposal to Irish in the near future.

Trial Ad prof Farley passes away

E. Milton Farley III, a partner at the Richmond firm of Hunton & Williams and a recently appointed lecturer for Trial Advocacy, died on September 4, 1991, in a Richmond hospital. He was 63.

"The law was his life," said Rep. Thomas J. Bliley Jr., a longtime friend of Farley. "He was a wonderful, warm, friendly, outgoing guy, and a real man of principle."

Farley had been appointed to lead classes in Trial Ad and to provide the perspective of a litigator with experience in complex litigation with a large firm.

Professor Walter Felton said Farley had joined the Trial Ad program to balance out the perspectives of Professor Lederer in military law, himself in personal injury litigation and attorney Tom Woodward in criminal defense work. The Trial Ad faculty had planned to utilize Farley's experience in coaching competitive

trial teams to enhance the educational experience for students at Marshall-Wythe.

According to third-year student Mark Hermann, Farley was dedicated to work and litigation and he described litigation as the highest art form for an attorney.

Milton Farley joined Hunton & Williams in 1952, and founded the firm's trial section, now known as the litigation section, in 1963 along with now retired U.S. Supreme Court Justice Lewis F. Powell Jr. He was the supervising partner of the litigation section from 1963 to 1981 and handled cases defending major manufacturers in product liability claims.

He also tried cases in areas such as antitrust, commercial banking and patents.

From 1981-86, he organized and headed Hunton & Williams' litigation section in Washington. In 1990, Farley started a trial practice program for the firm's

summer associates.

"He was a very good trial lawyer," said Powell. "He was respected by lawyers around the state, including by his adversaries."

Born in Hampton, Farley attended Benedictine High School in Richmond and Mount St. Mary's College in Emmitsburg, Md.

He served the U.S. Army for two years after World War II and earned his law degree from the University of Notre Dame in Indiana.

Farley was active with the American Bar Association and was a past president of the Bar Association of the City of Richmond. He served on the boards of directors of Notre Dame Law School and Benedictine High School in Richmond.

Memorial contributions may be sent to St. Bridget's Church, 6006 Three Chopt Road, Richmond.

Recent assaults raise concerns about campus safety

SBA discusses unlit parking lots, broken emergency phones, and sexual assault hearings

By KEVIN KRONER

The attempted rapes of 2 graduate students last week have raised concerns in the Marshall-Wythe community that students are working to address. The SBA received an update on the areas of concern from the Safety and Security Committee at Wednesday's meeting.

Committee chair Kate Atkins reported that many first-year students have approached her with concerns about safety at the law school at night. Questions regarding escort services, safety programs, lighting, and free whistles have all been raised in the wake of last week's assaults. Atkins told the SBA that security awareness programs are being planned for the near future.

Two areas of immediate concern are lighting problems and the need for an escort service. Atkins noted that not all of the lights in the front drive were functioning one night last week. She said she had also notified Vice President for Student Affairs Sam Sadler about the need for lights in the grassy parking lot on South Henry Street.

According to Atkins, Sadler said that he would consider lighting the lot. However, in the *Docket* information sheet distributed by the law school administration last Friday, Campus Police announced that because of the lack of lighting for the grassy lot, students parked there after 5:00 p.m. would be ticketed.

At Wednesday's meeting, Atkins also told the SBA that a student had reported

that the emergency phone in the paved parking lot south of the school was not functioning. When a staff member of the *Amicus Curiae* checked the phone on Friday afternoon, it was still out of service.

It was not immediately clear how long the phone had been unusable. A switchboard operator for the Campus Police said that she would file a work order with the maintenance department to have the phone repaired.

Several students at the school have expressed a desire for an escort service. Different options were discussed at the Wednesday SBA meeting.

One proposal involved asking male students to sign a pledge to escort Marshall-Wythe women after dark. Those supporting this proposal said that signing the pledge would increase awareness of the need for increased nighttime security.

Other students suggested devising a system using the library's intercom system. Under this proposal, any student in need of an escort could request assistance at the desk, and an announcement would be made over the intercom.

Atkins also informed the SBA that some aspects of the College's new sexual assault policy are not binding at the law school. Specifically, the new policy's requirement of a hearing is not applicable at Marshall-Wythe. Under long-standing College policy, all graduate schools are considered autonomous.

Atkins said that as far as she is aware,

Marshall-Wythe does not currently have a policy regarding hearings for persons accused of sexual assault. When asked after the meeting about reasons why the hearing policy would not be applicable to Marshall-Wythe, SBA president Rich Brooks cited the differing natures of the undergraduate and graduate schools.

Brooks said it was his understanding that while the undergraduate school has established a separate body to deal with violations unrelated to the Honor Code, it is within the discretion of each graduate school's Administration to adopt such a policy.

"We really don't have the same kinds

of problems that the undergraduate campus does in terms of dorms and fraternity or sorority houses," said Brooks. "I don't think it is a matter of people in the graduate school administrations not being concerned, as much as there just really hasn't been a need for this type of policy because graduate students don't live on campus property."

Atkins also told the SBA that the free whistles normally distributed to first year women have not arrived yet. In the past, Chi Omega Gamma has been responsible for distributing the whistles. However, this year, Atkins said that there has been no activity by the group as yet.

M-W political clout increases

Law student to sit on traffic ticket appeals board

By KEVIN KRONER

The political representation of the Law School on the main campus is set to increase this year. SBA President Richard Brooks has announced that six Marshall-Wythe students will serve on campus committees where law school representation has previously been lacking.

During Wednesday's SBA meeting, Brooks said that six student appointments will be made. Marshall-Wythe will now have a student to represent the school on the Transportation Advisory Council, the Transportation Appeals Board, the Recreation and Sports Advisory Committee, and the Concerts Committee.

In addition, two law students will serve on the Graduate Housing Advisory Council. Marshall-Wythe students have not been included on any of these councils in the past.

According to Brooks, these new positions are in addition to the law school's representation on the Board of Student Activities (BSA). Brooks said that he was "very happy that the College is recognizing the need for increased law school representation when deciding issues directly affecting us."

Brooks sought representation for the law school on the Transportation Appeals Board after a recently-ticketed law student asked him about the citation appeals process. According to Brooks, this Board actually reviews and decides the outcome of appeals filed by students who protest parking citations issued by the Campus Police. "Considering the problems we're having with the parking situation here, I thought it was especially important that the school be represented on the Board," he said.

Brooks told the SBA that he gave up a position on the Commencement Committee in order to obtain the position on the Transportation Appeals Board. The rest of the new positions represent a recognition by the administration of the need for greater law school representation.

"Vice President [Sam] Sadler has made a new commitment to seek greater input from the law school student body, and I am very happy about that," Brooks told the *Amicus* on Saturday.

One of Brooks' campaign promises was to gain representation for the law school on issues involving the expenditure of student fees.

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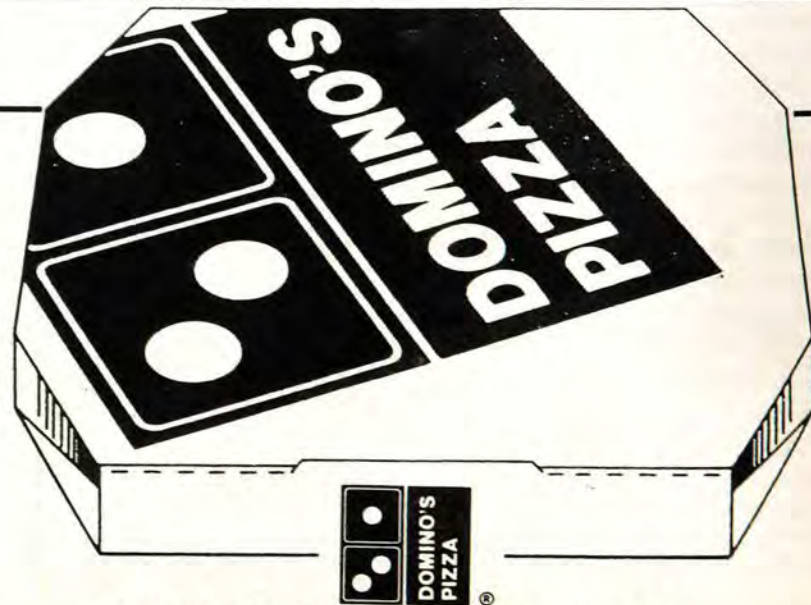
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Injunction against Kinko's means headaches, higher cost

\$510,000 in damages awarded to publishers for copyright violations

By DAVID PFEFFERKORN

As many first year law students thumbed nervously through the opening pages of the Legal Skills packet from Kinko's, they were met not with sage advice about the practical aspects of lawyering but with 28 pages of responses to standard requests for copyright permission. Those familiar with Kinko's or other commercial copiers who have joined the burgeoning business of professor publishing knew that something must have prompted this wasteful inclusion.

The additional pages are a direct result of a successful lawsuit filed against Kinko's Graphic Corporation by a group of eight major publishing houses last Spring. The publishing houses charged Kinko's with numerous violations of the 1976 Copyright Act. While the ruling itself protects the original authors and publishers of written work, the short-term results here at the law school are major headaches for professors who piece together the commercially created anthologies and higher prices for students who buy them.

Commercial copying for educational institutions is big business, and Kinko's has worked hard to secure the patronage of many professors at universities across the country. By offering an attractive package of services that appealed to the professors' wishes, Kinko's was able to capitalize on the innovative idea of professor publishing. Professors were given the freedom to include exactly the material on which they wished to focus, students paid less-than-textbook prices, and Kinko's created a profitable division within their business.

However, Kinko's often cut corners in seeking permission and paying royalties for the use of the material in the packets, denying the authors and publishers the revenue they rightfully deserved.

Since the mid-1980s, Kinko's had been selling "course packets" to students at many universities. Professors would pick out articles, chapters from books, and other resources that they wished to compile for their students, and Kinko's would then assemble and bind the packets for purchase by the students. Kinko's also offered to seek out copyright permission for the documents enclosed in the pack-

ets—a responsibility they sometimes ignored.

The publishing houses didn't have to go far to come up with evidence that Kinko's was shirking its responsibilities. Armed with course packets produced in New York City for professors at Columbia University and the New School for Social Research, lawyers for the publishing houses noted that many documents in the packets were included with neither permission from the publishers nor the standard payment of royalties.

Pointing to anthologies distributed to 230 students that included 110 page selections from books, the lawyers for the publishers claimed a blatant violation of the 1976 Copyright Act. Kinko's countered by citing the "fair use" provision in the Act, which does allow for some limited exceptions for educational purposes.

Judge Constance Motley, however, was unsympathetic to Kinko's defense. In *Basic Books, Inc. v. Kinko's Graphics Corp.*, 758 F. Supp. 1522 (S.D.N.Y. 1991), she ruled that the "fair use" provision includes several factors which are weighed when determining whether the use violates the Copyright Act. Among these are "the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes" and "the effect of the use upon the potential market for or value of the copyright work."

Kinko's claimed that it offered an invaluable service to education as a whole, that without the production of course packets professors would be forced to resort to ineffective traditional publishing. Judge Motley, however, found their intentions to be much more profit-oriented than altruistic. "The extent of [Kinko's] insistence that theirs are educational concerns and not profitmaking ones boggles the mind," Motley said in her lengthy opinion.

Although profitmaking does not necessarily preclude the "fair use" defense, Judge Motley noted that Kinko's widespread use of the various documents unquestionably put a dent in the wallets of publishers and authors. The market effect of the distribution of thousands of copyright-infringing documents was, at least, detrimental.

Professors Marcus and Hardy agree that this decision was a fairly straightforward application of the Copyright Act. Marcus added that the law is necessary to "encourage people to write." He said he routinely seeks the permission of authors or journals for use of substantial pieces and receives numerous requests for the use of his own work.

While Kinko's was required to pay \$510,000 in damages, the injunction against future infringement has proven a more unwieldy burden. To comply with the ruling, Kinko's must seek permission from the publishers, a task which they have passed on to the professors.

While Kinko's is not required to include the documentation of permission in each individual course packet, the copier has chosen to do so. Marcus noted that the message to the commercial copying industry from this decision has not gone unheard. Other commercial copiers have adopted policies similar to those of Kinko's, and have required professors to submit letters of permission with each and every document.

Professor Devins said the administrative aspect of complying with the commercial copiers' new policy has created "a living nightmare." Devins, who essentially creates his own textbook for Constitutional Law classes by anthologizing the

works of others, has been forced to seek permission from between 200 and 300 separate sources. Devins said that while many publishers are quite good about responding promptly, others are intolerably slow. This has necessitated a daily flurry of phone calls by his research assistant seeking final releases from the publishers.

The costs of the course packets have gone up as well. While Kinko's does not charge specifically for the pages of permissions, the cost per page for the professor publishing service has increased. Though the packets may still be cheaper than textbooks, the gap has definitely shrunk.

The future of course anthologies, though, is far from bleak. Clearinghouses for those seeking permission are forming, and that should make life easier for those, like Devins, who still wish to create anthologies. Self-designed textbooks may be the wave of the future. At least one publisher now offers a comprehensive computerized list of documents from which the professor can pick and choose those that will appear in the textbook. The technology is certainly available for this type of creation, and it may only be a matter of time before Professor Devins can have an actual textbook that includes just the materials that he has chosen.



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Marshall-Wythe profs help draft Bulgarian constitution

Devins, Fisher, Verkuil fear new democracies restrict speech too much and make too many promises

By RICHARD A. HRICIK

Professors Neal Devins, Lou Fisher and College President Paul Verkuil, as part of an American Bar Association coalition, went to Sofia, Bulgaria, this year to aid the new government in the drafting of their constitution.

Through the ABA's Central and East European Law Initiative, a series of workshops were set up with various Bulgarian officials. President Verkuil visited Bulgaria in March while Professors Devins and Fisher arrived in early June.

In an interview with the Richmond Times-Dispatch, Verkuil said of the experience: "The Constitution came alive and changed me forever." Devins described the experience as "extraordinary," and commented, "I used to only pay attention to domestic issues. I viewed the U.S. as the center of the universe. Now, I no longer skip over international news."

The ABA group met with members of the Bulgarian parliament, their aides, members of the executive branch and other interest groups, including Bulgarian lawyers. Devins and Fisher were very impressed with the seriousness of the Bulgarian's study of western countries.

"They were not only familiar with the U.S. system of government, but were also knowledgeable of both European and Asian governments. The Bulgarians look to the U.S. as the strongest democracy in the world with the greatest freedoms and stability," Fisher said.

Fisher stressed that the delegates were there merely to provide advice and guidance. "We were careful in our words and actions not to offend them. We wanted them to know that we would not try to impose our constitutional values upon them."

Verkuil echoed these sentiments. "No one in his group was there to lecture anyone or tell them what to do," he said.

The delegation offered our constitution as a means of demonstrating the implementation of democratic principles.

"I was surprised at how often a group would propose a given a provision and we would explain why it would be problematic and then later learn that our suggestions were adopted. It was gratifying to know I could help people understand what they can accomplish in a democracy," Devins said.

He also noted a sense of urgency among the drafters. "I got the sense that they were so afraid of doing the wrong thing. They believed this drafting had to be perfect. Many times the drafters merely sought assurances that they were headed in the right direction."

The new constitution, which was adopted in July, was not created in a vacuum. Fresh in the minds of the drafters were the painful memories of 45 years of totalitarian rule.

These memories left the Bulgarians with a profound fear of concentrating too much power with any one group. Verkuil noted the parallel to the early years of our

constitution. "I got the sense that their arguments about a strong executive were no different from the Federalists and Anti-Federalists debating 200 years ago."

The parliament members were amazed at the independence of our judiciary and executive branches. Many questions directed at the delegation dealt with the separation of powers and the check and balance features of the U.S. Constitution.

President Verkuil also commented, "The notion of independent judges is foreign to Bulgaria. They lack the infrastructure to run the judiciary as an independent branch."

Fisher and Devins said that the Bulgarian government's recent history, which resulted in the deprivation of basic necessities has created serious problems in the new constitution. This has led to the inclusion of a laundry list of affirmative rights the government is obligated to provide.

Under the new constitution the government must provide free education, medical care and a host of other social services. Devins and Fisher agree that these emerging democracies are handicapping themselves at an early stage. Fisher noted that the economy is devastated and there is very little tax revenue to pay for such services. "These are lofty goals that will be almost impossible to meet given the state of the economy."

At the same time the Bulgarians are striving toward democracy, they are desperately clinging to the idea of state-owned property. Under the new constitution, the state will continue to own all property but will allow others to operate businesses, in a manner similar to a franchise. The government will allow citizens to bid on these business operations and award the "franchise" accordingly. There are also rigid restrictions barring foreign ownership of property.

Another major stumbling block in the area of individual rights appears in limitations on free speech. Fisher noted the new constitution contained sedition laws banning criticism of elected officials. He said, "Faithfulness to the country is sacred. They (Bulgarians) were incredulous to learn flag burning was a protected right of expression." Devins likened it to 'political correctness' and added "there is now an obligation to speak for democracy."

The most apparent example of cultural bias is evident in the religion provisions of the new constitution. Many Bulgarians harbor old fears of the Turks dating back to the Ottoman Empire. During these 500 years of Turkish rule, the Islamic religion was imposed upon the Bulgarian people. This history led to the establishment of the Eastern Orthodox Christian Religion as the only religion officially recognized by the state. Under the new constitution, Islam is neither prohibited nor recognized.

Despite these provisions, all three constitutional scholars are hoping for the best. Verkuil said, "I have a very optimistic feeling about the future of Bulgaria and

the evolution of their constitution." Devins added, "It is up to the people to carry the spirit of democracy through. For example, it took the efforts of people such as John Marshall in the Marbury decision to elevate the Constitution to new heights." Professor Fisher said there were provi-

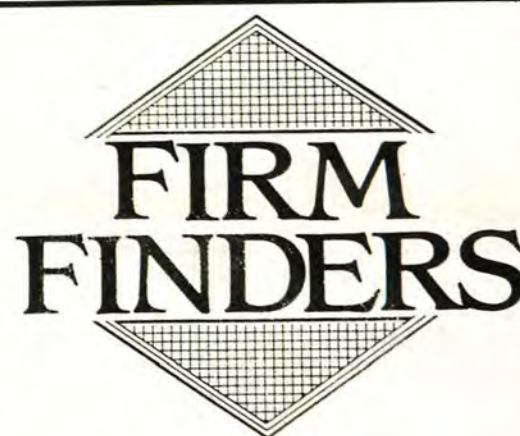
sions he disagreed with and he hoped time would take care of these problems.

Dr. Verkuil plans on continuing his work with the Bulgarians, and Fisher and Devins have already worked with the Romanians and plan on possible future work with the Albanians.

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Law school attempts to muzzle independent newspaper

Hastings Law News criticizes administration, editors denied bar certification

By STEVE SHEBEST

Two editors of a student-run independent newspaper at the University of California's Hastings College of Law have filed suit against the school and its administration after being refused admittance to their state Bar as a direct result of editorials they published criticizing school administration officials. In what the editors allege to be a retaliatory move, the school refused to certify their moral character to the state bar, resulting in their being denied admittance.

The suit, *Ballantine v. Khachadour*, seeks multi-million dollar punitive damages. It was filed in California Superior Court by James Ballantine and Christina Dalton on May 16 of this year.

The incidents leading to the lawsuit began in early 1990 when the *Hastings Law News* published an article, an editorial, and a caricature — over the course of two months — blasting the administration.

The article, printed February 22, recounted several alleged "historic abuses of power" on the part of the Hastings Board of Directors, including the diversion of scholarship funds for the purchase of real estate during the 1970s. The *Law News* uncovered a copy of the actual minutes of the meeting where the vote for the diversion of funds occurred. The "official" minutes released by the Board revealed nothing about the diversion.

The editorial, printed March 6, called for the resignation of Hastings' general counsel Angele Khachadour. Reached at home, James Ballantine cited several reasons for the resignation request, including Khachadour's ties to the 1970s Board, her "antagonistic relationship with the community surrounding the law school," and her work against a student body proposal which would have placed a student on the Board of Directors. According to Ballantine, Khachadour's effort to block the proposal involved the hiring of a private professional lobbyist to counter the lobbying efforts of both the student body and the *Law News* in the state legislature.

Repeated attempts by the *Amicus* to reach Khachadour for comment were unsuccessful.

Ballantine also took issue with the expenditures of the office of the general counsel. "It is obviously excessive for the general counsel of a school with 1300 students to be required to hire an additional full-time attorney as well as shell out half a million dollars for outside research," he said.

The caricature, picturing Khachadour beside Cruella De Vil, villainess of Walt Disney's "101 Dalmatians" was entitled "Separated at birth?" and appeared as part of the April fool's edition of the paper in 1990.

Ballantine said that just seven days after the editorial ran, he and Dalton were approached by the president of the student

body who, at Khachadour's direction, ordered them to submit to an audit of the paper's finances. Ballantine and Dalton refused, citing the fact that the *Law News* was financed entirely by advertising and received no money from the law school. The editors also noted that there was no recent history of the school requiring an audit of other student organizations. Ballantine said that he and Dalton felt the *Law News* had been singled out by the administration.

According to Ballantine, the administration responded to the objection by requesting an audit of all student organizations receiving funding from the school. "However," Ballantine said, "this request was issued on the last day of classes and met with little or no compliance on the part of student organizations."

Continuing in their refusal to turn over the newspaper's accounting books, the editors then received individual letters threatening disciplinary action by the school. The two graduating editors were also warned that the college's Dean, Franklin "Tom" Read, would not certify their moral character to the state bar, a requirement for admission in California, as well as many other states, including Virginia.

Ballantine and Dalton went on to pass the bar exam, but found that the Dean had indeed failed to certify their moral fitness to the state bar association. The dean regularly submits both an acknowledgment of graduation and a short form on moral character for all students applying to the bar. On that form are six or seven general questions involving character which have "yes" and "no" boxes for the dean to mark.

Ballantine said that normally, the dean would check "no" for all of the questions, which inquire about his knowledge of any impropriety on the part of the student in areas such as academics, finances, or breaches of trust. For two questions on Ballantine and Dalton's forms — the first involving the student being "knowingly delinquent on a financial obligation" and the second regarding "a breach of trust" on the student's part — Dean Read created a third box labelled "don't know" and marked it. As a result of this action, both Ballantine and Dalton were refused admittance to the bar until an independent investigation could be completed.

In addition, the school locked the doors of the *Law News* offices in the beginning of August of 1990, forcing the paper to publish "underground" for the month. The school removed the lock at the end of the month, following a threat of legal action by the attorney for the *Law News*.

Ballantine and Dalton, citing fears of being audited by a biased administration, continued to deny the school officials access to the *Law News* records. Anxious to show the absence of any impropriety, they asked the independent accounting firm of BDO Seidman to conduct an audit of the 1989-90 finances.

The firm uncovered no mismanagement in its audit, which was carried out on a *pro bono* basis and would otherwise have cost the school approximately \$10,000. The finances audited, according to Ballantine, totalled only \$18,000. However, the Dean has refused to notify the state bar of the independent audit, insisting that the *Law News* failed to comply with school regulations.

The two students were finally admitted to the California bar, after an investigation by the bar morality committee which certified their fitness to practice.

Earlier this year, Ballantine and Dalton

were honored by the Society of Professional Journalists for "their efforts in keeping the ideals of the free press alive."

Khachadour, in remarks made previously to the American Lawyer Media publication, *The Recorder*, called the award to Ballantine and Dalton "a very, very sad joke."

This August, the ABA named the *Hastings Law News* the top law school newspaper in the nation among law schools with more than 750 students. (The *Amicus Curiae* received the same award in the category for law schools with fewer than 750 students.)



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Equality can be achieved with incentives, not quotas

Peter Dutton

The words "affirmative action" have become a powderkeg of emotion and political rhetoric over the past two decades. Unfortunately this unleashed passion has obscured not only the real issues, but real opportunities for solutions as well. During his nomination hearings before the Senate Judiciary Committee this week, however, Judge Clarence Thomas cut through the emotion and rhetoric and placed the problem squarely before us so we might all confront its naked ugliness. "The problem," he said, "is that although the American constitution is color blind, American society is not."

Our society has fought the equality battle with itself for over one hundred and thirty years. Yet today we still have a huge minority underclass. Statistics are simply not required to drive home this point. From Williamsburg you need only make the two and a half hour drive to the center of our nation's capitol to see that the policies of the past have largely failed. Take a drive up Route 13 on the Eastern shore, if you still remain a skeptic. You will see beautiful farms with neatly manicured white houses surrounded by fertile fields. In between these farms you will see unspeakable poverty where families, mostly minority, live close to squalor. Although Judge Thomas is living proof that the old policies of affirmative action have won some battles for equality, a drive through - take your choice - the city or the countryside makes it plain that we have not yet come even close to winning the war.

So what is our problem? I do not pretend to have all of the answers. I do not even presume to know all of the questions. But I do know that despite our glaring failures

this nation has prospered most where it has most closely adhered to its fundamental values: equality of opportunity, incentive, and individual action.

One clear example of this is the success the American military has had over the last few decades in equalizing opportunities for an individual to advance to his highest potential regardless of race. The military offers equality and enforces it to the fullest extent of the law. Advancement is limited only by individual drive. The result is that today the highest ranking military officer in the nation is an African-American.

No quasi-constitutional racial norming of test scores or hiring quotas were required to achieve this type of success in the military, and none are required to achieve it in the private sector. If we are to continue to advance toward our social goal of true equality of opportunity - and we must or we are a nation without a soul - then our political focus must be to structure strong incentives for individuals to act directly toward this aim. However, in keeping with the truths enshrined in our Constitution, these incentives ought not to be aimed specifically at racial minorities, but at all people of any race who are disenfranchised for any reason. As Justice Harlan said nearly a century ago in his ringing dissent in *Plessy v. Ferguson*, "Our constitution is color-blind, and neither knows nor tolerates classes among citizens."

To this end of bringing about a more just society, Congress could, for instance, use its broad powers to create incentives for social change through tax law. This avenue has been used with some success in the past to encourage employers to offer employee health plans, to promote the use of life insurance policies, and perhaps most successfully to encourage private home ownership. An attractive proposal in this area might be to offer a full business deduction for all costs associated with the first

year of employment of anyone hired off the welfare rolls. With some imagination this could even include such costs as on site daycare for single parents. Another tax idea with potential: parents could be encouraged to look after their children's education by allowing a tax deduction for their children only as long as they continue to be enrolled in school. These are win-win solutions. More individuals are employed and educated, and the government spends fewer tax dollars on welfare and teenage crime. More employment means more tax revenues to offset the increased education costs.

Jack Kemp, at the Department of Housing and Urban Development has come up with another plan to turn what were once expensive federal housing projects into opportunities for low income people to acquire property of their own. Access to such economic opportunities as these increases the choices available to that whole class of people who under previous policies were doomed to unending reliance on government handouts.

This is not some return to *laissez-faire* capitalism. This approach presumes an involved government elected by a people which chooses to look at, rather than away from, our nation's politically and economically impoverished. It presumes a society actively involved in fostering social change - change that comes about through incentives that reward the cooperative and punish the belligerent.

Equality of opportunity. Economic incentives. Individual action. If given a chance they will work to enfranchise those who have been left out. American society may not yet, like its constitution, be color blind. But our traditional values have proven themselves reliable in solving problems over the two centuries since our nation was founded on them and, creatively applied, they will serve us well to solve our problems today.

Affirmative action is an opportunity to prove competence

Belinda Hatzenbuehler

Ideally, America is the land of equal opportunity. Realistically, it's not. Our socio-economic stratification promotes unequal treatment of individuals. Recognizing that we fall far short of our American ideal, affirmative action is a way to get beyond some of the malignant and pervasive inequalities that hamper our society.

Under affirmative action programs, a prospective, qualified, racial minority or female employee can be given preference over an equally qualified, prospective racial majority male employee. The justification for such a program is generally couched in terms of remedying past wrongs. To get beyond the problem of racial or sexual discrimination, we may have to use affirmative action to provide access to positions previously denied to racial minorities and women.

Given America's strong Judeo-Christian roots, affirmative action may also be viewed as an atonement for our country's past sins of racial and sexual discrimination. In this view, those previously privileged may need to make some sacrifices so that in the future such distinctions as a person's race or sex will not need to be used in determining who should be chosen for a job.

Clinging to the color-blind Constitution, one could claim that any type of discrimination on the basis of race is wrong, but such a quick dismissal hides the real issue.

Supreme Court nominee Clarence Thomas stated the reality of the situation well one day during his confirmation hearing, "Even though our Constitution is color-blind, our society is not."

Historically and presently, other methods of hiring, such as cronyism and good-ol'-boy networks, have been pervasive in some employment sectors. They have created divisive, exclusionary attitudes that are far more damaging to any semblance of equality in America than ever could be perpetuated by such a benign measure as affirmative action.

In an economic sense, I view affirmative action as a way to alleviate some of the misappropriation in our labor force. Affirmative action efforts require employers to broaden the base of potential employees, thus providing a way to include previously excluded groups in all sectors of employment.

America presently suffers from a lack of scientists and engineers. It may be just a matter of time before the white majority, who traditionally fill these positions, will count itself among the minorities. Without affirmative action, we could become a nation suffering even more greatly from a shortage of individuals qualified for certain professions.

While the rare individual may be able to pull himself up by his bootstraps to overcome obstacles in life, that leaves the rest of us in need of some help. Whether it is in being nurtured by parents or prodded by teachers, somewhere along the line, most everyone is assisted. Affirmative action is just another way to help. It's a

slight incentive, a glimmer of hope, for those minorities or women who can meet the necessary qualifications for a job to believe that they have a chance to get it.

Affirmative action programs can provide incentives for young minorities and girls to become better educated. Rather than believing that it's too difficult or impossible to enter some professions, they can expect an opportunity to compete, once they get their educations.

Getting a job through an affirmative action program is not like winning the lottery. It's only an opportunity to prove that a minority or woman is as capable and competent as the next person. Affirmative action employees must still meet the demands of their jobs. They are not being given a free ride. The bottom line is that affirmative action provides a chance for a minority or a woman to get a foot in the door that would otherwise be closed.

PERVERTED, from page 2

puts a woman victim on trial during a rape case. It is the same one which allows date rape to continue unabated. It is the same one which leads to similar incidents which cannot help but mar women, physically and psychologically, for the rest of their lives.

I leave each reader to decide how best to deal with the problem. Physically sickened by what I heard, I have chosen to relate the story as far and wide as possible in the hope that someone has an answer. Perhaps education will help. I believe that people like the graduate student I met will continue to exist regardless of education. Perhaps, however, if more of us are aware that such people exist, even within the confines of our own institution, the attitude held by these people will not result in a repeat of the incident the student related to me. If such incidents do happen, perhaps the individuals involved will find a population who will not tolerate such behavior.

John V. Edwards

"Crossfire" is a regular feature of the *Amicus Curiae*. It is an open forum for students to present views on controversial issues. Any student interested in writing on an issue for "Crossfire" should drop a note with his/her name, year and topic in the *Amicus* hanging file. It is not necessary for a student interested in writing on one side of an issue to find a party to write the opposing view. Although "Crossfire" topics are subject to editorial approval, opinions submitted will not be edited by the *Amicus* staff. "Crossfire" submissions will not be printed anonymously.

Critics of Bush's foreign policy are digging their own graves

Jarrell Wright

The "leaders" of the Democratic Party, for lack of anything better to do, have accused President Bush of neglecting domestic policy. Notwithstanding the fact that the Democrats have yet to formulate a convincing, credible, or even coherent agenda of their own, they argue that Bush has been spending far too much of his time and attention abroad. If the Democrats are hoping to use this issue to lure voters to their side in 1992 they would be well advised to use better bait.

Any bright line distinction between foreign and domestic policy must be based upon an antiquated and isolationist perspective of world affairs. In a world as interdependent as ours, what happens abroad inevitably affects what happens at home. No "domestic problem" is without its international component, and no global development fails to touch us within our own borders. Any effective resolution of the drug problem must include concerted action in Central America and the Far East. The spawning of democracy and capitalism in the Soviet Union and Eastern Europe presents new opportunities for investment, which could be of enormous benefit to our economy. Unstable or tyrannic regimes in the oil-rich Middle East, if left unchallenged, have the potential to hold our nation hostage. Opportunities for lasting peace in several regions of the globe offer us a chance to restructure our relations with other countries, and to restructure our priorities at home.

Foreign policy is domestic policy. Perhaps one of the reasons why a Democrat has not won a presidential election since 1976 is that the Democratic Party has failed to grasp this concept.

A president must be responsive to the central issues that arise during his term. George Bush has presided over a period of unprecedented global change, so it is hardly surprising that he would place most of his emphasis on foreign affairs. What else would we expect him to do? When the Berlin Wall fell, should

we have expected Bush to drop everything in pursuit of a national day care policy? During the Soviet Coup should he have been chairing a task force on homelessness?

According to the Democrats, Bush views himself as a Super-Secretary of State, manipulating nations like chess pieces on some global checkerboard. But President Bush's apparent fetish for foreign affairs is simply a function of the events which have occurred during his term of office. We would ignore these significant changes to our detriment. A "New World Order" is emerging, whether we like it or not, and the only alternative to direct and active participation is to be left on the sidelines after the dust has settled. Bush is to be commended, not condemned, for

his role in shaping these events to ensure that America's interests are safeguarded in the Post-Cold War world.

Those who criticize the president for ignoring domestic policy also fail to recognize that President Bush has been very involved in domestic issues throughout his term. His Crime Bill was domestic policy pure and simple. Bush has worked very closely with Samuel Skinner to develop a far-reaching set of proposals to revise America's transportation policy. Also, in fulfillment of Bush's campaign commitment to education, he and Education Secretary Lamar Alexander have offered a package of reforms to bring much-needed improvement to our nation's schools. All too often, the Democrats accuse Bush for neglecting

domestic policy when what they really mean is that they disagree with his agenda.

If they have any better ideas, they have been keeping quiet about them. Maybe they don't have any better ideas. Could that be why so few Democrats of standing have expressed an interest in running for president? Could that be why the last three (soon to be four) Democrats to win their party's nomination have gone down in flames on Election Day? Finally, could that be why the Democrats have grasped onto Bush's foreign policy emphasis as their only campaign issue to date?

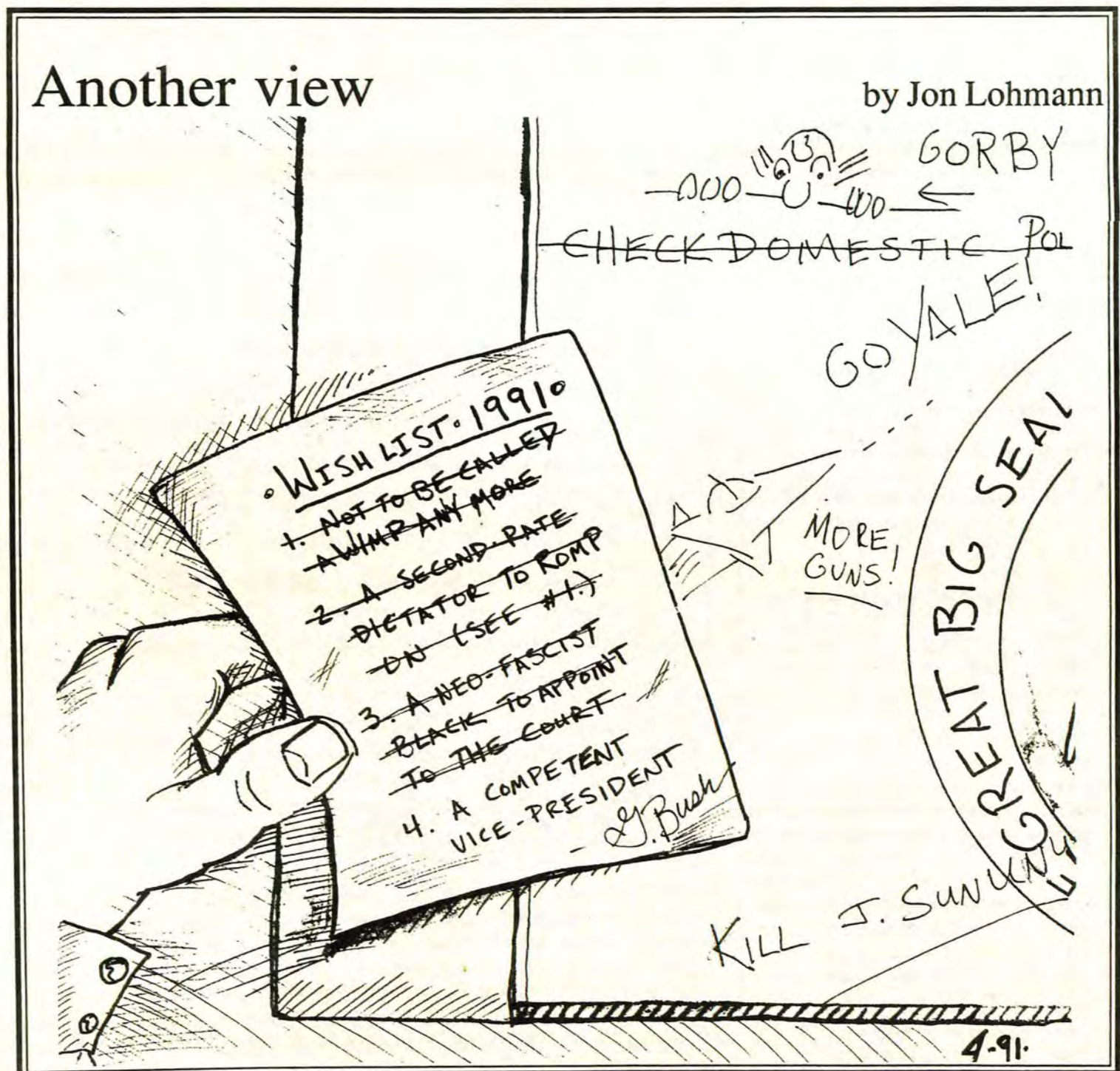
Every time the Democratic Party makes this criticism it drops another handful of dirt on its own grave because this issue plays right into the hands of George

Bush. The most recent Democratic foreign policy statement was its opposition to the Persian Gulf War. The last Democrat to have a real foreign policy was Franklin Roosevelt. And when was the last time the Democrats advanced a domestic policy agenda? One that worked, I mean. Unless their party can come up with something a bit more promising, the Democrats might consider whether they should sit things out in 1992. They could use the rest — it won't be long before they'll have to find someone among their withering ranks who could compare favorably to Dan Quayle in 1996.

Jarrell Wright is a third-year student from West Virginia.

Another view

by Jon Lohmann



Ask Miss Demeanor

By MISS DEMEANOR

What a joy it is to return to the Happy Students at Marshall-Wythe! I am terribly sorry to have missed the first issue of this lovely publication, but the heat in Virginia is so oppressive in August, I simply couldn't bear to end my vacation until the time had come to put away my white shoes for another season. From what I hear, many in the third year class encountered the same problem. I see that in my absence, many pressing matters of law school etiquette have arisen, so let's turn now to your queries.

Dear Miss Demeanor,

During law camp I was randomly selected to join a particular "law office" and this — along with the heady excitement of being away from college for the first time in a strange new place — caused me to form an extremely tight-knit close circle of friends. Now, after a few weeks of real classes, the first letter of my last name has thrown me in with an entirely different group of extremely tight-knit comrades. To which group do I owe allegiance?

And, in light of recent international events, is it okay to use "comrades" in a letter?

Overwhelmed by Hallowed Halls

Dear Overwhelmed:

It is obvious that I should have returned to Marshall-Wythe in time for Law Camp, for I see by your letter that insidious forces have once again been at work within the law school. Unfortunately, you have fallen victim to a form of social engineering which, no matter how benevolently intended, I feel I cannot condone.

I refer of course, to the efforts of the Legal Skills staff to create instant peer groups for new students through the "law firm" concept. As I understand it, the people within your "firm" were chosen after a compilation of highly complex statistical data which, when distilled to its essence, resulted in your being grouped in a "firm" with people who are roughly your own age. As in any other social setting, you will soon learn whether or not you truly have anything in common with these people.

I can only hope that you will not

follow the example of some of your classmates who seem to feel that they owe allegiance only to their own class ranking. Given the swiftness with which some have learned to steal precious and valued study aids, your class shows a remarkable reverence for this deity already.

Additionally, "comrade" is a perfectly lovely word to describe those whom you outwardly appear to like, but cannot truthfully call "friend". Much as your comrades may try to persuade you, it is doubtful they can ever be your friends if they have no time for anything save preservation of their ranks.

Dear Miss Demeanor:

I'm a first year and want to know why we have three classes on Fridays 'til 2:30?

P.O.'d (1L)

Dear Miffed:

In its infinite wisdom, the official scheduling committee was compelled to take this drastic step in response to a perceived problem in last year's first year class, who had only one class on

Fridays. The faculty noted an alarming group of symptoms among these students: bloodshot eyes, hushed tones and an inability to remain awake in Constitutional law. Some poor souls suffered so much they had to forego their single Friday class altogether.

As the faculty noted that there seemed to be no cure for these symptoms, save large amounts of sleep and aspirin, they gallantly implemented a bold prevention plan. The scheduling committee rushed into action and scheduled an additional two classes on Fridays in the fervent hope that this year's entering class could be spared.

Unfortunately, even this measure has not saved a hapless few. Their appearance and demeanor on Fridays should serve to remind you and your comrades of the great service the scheduling committee has done for the class of '94.

Questions concerning law school etiquette may be addressed to Miss Demeanor and left in the *Amicus Curiae* hanging file. Letters can be anonymous, and will remain that way unless Miss Demeanor figures out who you are.

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Top Ten reasons '91 grads haven't left yet

By GREG BRUMMETT

10. Continuing romantic attachment to a current student.
9. Hopes of establishing a romantic attachment to a current student.
8. Hired by Dean Kaplan to provide additional incentive for current students seeking employment.
7. Slept through graduation, hoping to try again next spring.
6. Still haven't been in every building at the Pottery.
5. Really thought 89 hours would be enough.
4. Getting psyched up for an LL.M.
3. Still haven't figured out this "think like a lawyer" business.
2. Trying to make parents really crazy.
1. Hoping to be selected as a Client "E" for Legal Skills.

Liability-A-Go-Go!!!!

First-year study aid: Mid-term hypo

By KEVIN WALSH

First-year students are often anxious because they don't know what to expect when exam time finally rolls around. As a public service the *Amicus Curiae* is providing the following sample Torts hypothetical question to help students get a start on exam preparation. (To Professors LeBel and Hardy: the *Amicus Curiae* hereby grants and relinquishes all rights and copyrights in the aforesaid hereinafter question, *quod erat demonstrandum* you may use it on your examinations, wherefore, hereby, witnesseth, sealed, by our

hands, etc., etc...)

Law School X is doing renovations around its school and has been forced to temporarily move the official student parking lot a further distance from the school. Students who use the lot—who paid \$50 for the privilege—must now walk for three or four minutes to get to the lot. The walk includes a stretch of about one hundred yards along a busy road where no path has been provided.

One day, one of the law students, A. Retentive, is walking from the parking lot to the law school, trying to make it to one of his classes. The professor in this class has made it

quite clear that attendance is mandatory. A. is walking by the curb because no sidewalk has been provided, when he is hit by a car and thrown into the dirt nearby. The driver later says that he was paying attention, but he just didn't expect somebody to be walking in the road. Injuries from the accident kill A., thus bringing a temporary halt to the development of an otherwise promising legal career.

Question: What liability, if any, will the school have for A. Retentive's death?

Naugahyde

by Dickinson



Meet "Felicity," the \$80 doll from old-time Williamsburg

A valuable learning tool or another example of yuppie excess?

By GREG BRUMMETT

Almost 12,000 people visited Williamsburg this summer to attend "Felicity's Elegant Tea Party," a series of parties held to introduce the latest doll in the "American Girl Collection" from Pleasant Company. The doll is advertised as being representative of a Williamsburg girl in 1774.

About 6000 girls aged 5-14 attended the series of special events which included a play, a fashion show, and a formal tea. According to a Colonial Williamsburg (CW) spokesman, the 24 sittings of the tea party attracted more visitors than any other event in the history of Williamsburg.

The ticket prices, \$50 per child and \$30 for each accompanying adult, were in addition to admission to the cost of admission to CW, and the \$80+ price of Felicity herself. But the tea parties were just the beginning. Pleasant Company also offers over \$700 worth of additional clothing, furniture, and

other accoutrements for the 18-inch doll.

This, as well as the availability of matching outfits for doll owners, has led some critics to hold Felicity and the other "American Girl" dolls out as yet another example of yuppie excess. Others, especially in Williamsburg, have criticized the historical accuracy of the Felicity doll and the related story books marketed by Pleasant Company. Felicity joins Samantha, a rich orphan who lives in New York City in 1904, Kirsten, a pioneer girl from the mid-1800s, and Molly, a middle-class girl from the 1940s in the company's line.

Those who defend the dolls point to the series of books that trace their adventures various historical settings. Many school libraries find it impossible to keep any of the 18 books on their shelves and young readers often take it upon themselves to invent additional adventures for their dolls.

Parents and educators find this interest in reading, history, and imaginary play a welcome change from MTV and video games. The 18 stories deal with many of the formative events in a young girl's life, such as birthdays and holidays, while celebrating the child's identity as a girl rather than as a young woman rushing toward adulthood. Some parents have said they appreciate the fact that the dolls are girls rather than deformed women (Barbie), mutant babies (Cabbage Patch Kids), or violent reptiles (Teenage Mutant Ninja Turtles).

Pleasant Rowland, the founder of Pleasant Company, rejects much of the criticism about the price of the dolls as unfounded. When compared with \$100+ Nintendo units, \$40 game cartridges, or a \$400+ Barbie palace, the \$80 dolls seem much more reasonable. The "American Girl" dolls also nurture young girls' creativity and their sense of history, benefits that most

other toys do not provide.

Whatever their opinion about the wisdom of those who purchase the dolls, critics cannot deny Pleasant Company's status as a toy-world success. Founded in January 1985, the Wisconsin based company has grown rapidly with 1986 sales of \$1.8 million rising to just under \$50 million for 1990. The most recent mailing of the company's catalog went to over 16 million addresses and the tea in Williamsburg was attended by girls from every state except North Dakota.

Future offerings from Pleasant Company may include a black doll in the period of the Civil War, a native American, an Asian American doll, and perhaps even some historic American boy dolls.

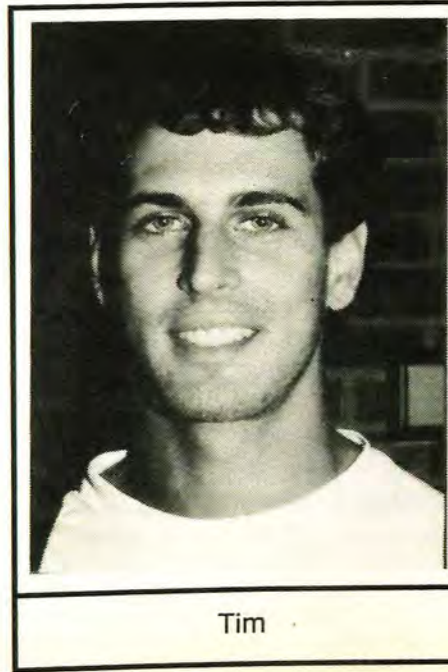
Whatever the future may hold, Pleasant company has achieved success in three highly competitive markets — toys, publishing, and clothing — by offering an integrated product with historical and educational foundations.

Collect them all! This week: Robber-barons of Marshall-Wythe!

More clip 'n' save Marshall-Wythe trading cards



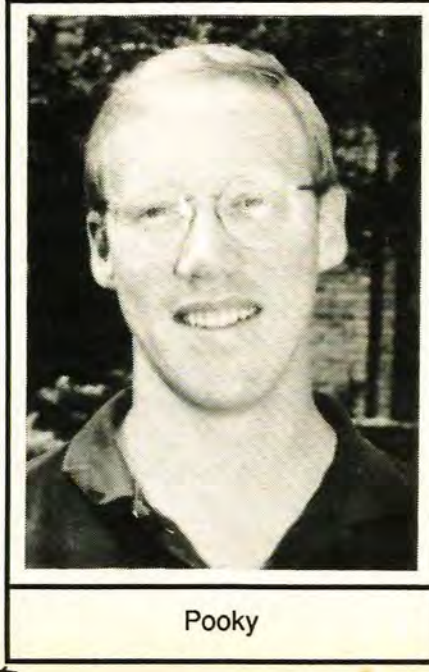
Wendy



Tim



Missy



Pooky

Bushrod competition begins Friday

The preliminary rounds of the 1991 Bushrod T. Washington Moot Court Tournament will open Friday, with 94 students from the second year class slated to compete. Although all rounds are open to the public, spectators are usually most interested in attending the quarter-final, semi-final and final arguments.

Quarter-final arguments in the tournament will be held on Saturday, September 28, from 9:30 to 10:45 a.m. Locations for the arguments will be posted on the tournament board in the lobby. Semi-final arguments will be held immediately afterwards, in Rooms 124 and 127.

The final round of the tournament will be argued in the Moot Court Room from 1:00 to 2:30 on Sunday, September 29. Judging the final round will be Virginia Supreme Court Justice Barbara M. Keenan, United States District Court Judge T.S. Ellis and the Honorable Richard S. Bray of the Virginia Court of Appeals.

Save those rejection letters!

As the recruiting season enters high gear, Dean Kaplan wishes to remind students to save their entries for the annual Platinum Plunger Awards. With the job market tighter than ever, this year should provide stiff competition for the many students who covet this prestigious award.

Last years winners included Stephanie Rever (3L), who received multiple rejection letters from not one but three firms within the course of a single week last October; Annette Elseth ('91), who was invited by the U.S. Department of Veterans Affairs to apply for either a Clerk-Typist or a File Clerk position; and Sonya Spielberg (2L), whose application for an unpaid position as a clerk resulted in a rejection from not only the judge she applied to, but every judge in the Federal District Court in Norfolk.

Those vying for the Plunger will be asked to submit their entries in late March or early April of next semester. In the meantime, students should keep their eyes open for possible contenders for this distinguished award.

Eat with the Prez

College President Paul Verkuil will host a series of luncheons for small groups of students at the President's House this semester. The luncheons are designed to give students an opportunity to meet with the President informally.

Luncheons are planned for September 24th and 30th, October 9th and 29th, November 7th, 12th and 20th, and December 3rd. Interested students may sign up on an individual basis by calling the President's Office at 221-1693 or stopping by Room 10 in Brafferton Hall to make an appointment with Verkuil's secretary.

Verkuil is especially interested in lunching with those students who will not have an opportunity to meet with him as a part of their regular schedules.

Vendorama

Several students have complained recently about poor servicing of the vending machines in the student lounge. A new company, CRH, purchased Ogden Allied Services

over the summer, and has taken over servicing of the machines.

Scheduling problems, which have been blamed for frequent problems with the dollar bill changer, are now under control, according to the company. Students who encounter problems with the machine are encouraged to call CRH at its toll-free number in Norfolk 1-800-359-1352. The number is displayed at the top of all of the machines in the lounge.

You don't need a date...

Most of the details for this year's annual Fall From Grace are set, according to Tammy Moss, (2L) SBA social person. November 2 is the date slated for the semi-formal dance/lushfest to be staged the Student Center Grand Ballroom from 8:30PM to 1AM featuring a live as yet unnamed band and an open bar.

Moss stresses that the event is open to both disgruntled singles and happy loving couples: "You don't need a date," she states emphatically. Of course, Tammy won't be there alone.

Tickets for the Fall From Grace will be priced at \$20 if purchased in advance and \$25 at the door, for couples. For singles the cost will be \$10 in advance and \$13 at the door.

As a side note, Moss is considering selling T-shirts commemorating the event. Any interested artist-types should contact her if willing to draw up a design. Moss also requests that persons contact interested in joining the Social Committee contact her via hanging file.

- Gregg Schwind

ΦΑΔ crab fest

The Phi Alpha Delta Legal Fraternity will be sponsoring its Second Annual Crab Fest on September 28, 1991. Last year the event, featured "all you can eat" crabs and plenty of beer and soft drinks.

Advance tickets will be required and can be purchased for \$8.00. A sales table will be set up soon in the law school lobby. For those who wish to join Phi Alpha Delta (P.A.D.), the entrance price to the crab fest will be waived.

Students who want more information about P.A.D. or the crab fest should contact Will Stoycos (3L) or Sandy Rizzo (3L).

Faculty committee seeks student opinion

Students are encouraged to submit comments about faculty members under review for promotion and/or tenure. The Faculty Status Committee is interested in student input regarding three candidates.

Associate Professor Jayne Barnard is eligible for promotion to full professor, Associate Professor Neal Devins is up for tenure, and Assistant Professor Susan Grover is a candidate for associate professor.

The deadline for written statements pertaining to these faculty members is October 15. Please submit all comments to Professor Koch.

Computer Consultant Lab Hours

Monday	Tuesday	Wednesday	Thursday	Friday	Sunday
8 a.m. to 2 p.m.	8 a.m. to 12 p.m.	8 a.m. to 2 p.m. 7 p.m. to 11 p.m.	7:30 a.m. to 9:30 a.m. 10 a.m. to 12 p.m.	8 a.m. to 10 a.m.	7 p.m. to 11 p.m.

• Carrel is located outside the computer lab • additional hours will be scheduled as necessary • if you need something contact Todd Pilot (1L), Greg Brummett (3L), or Morgan Smith (2L).

Brendan Shannon

Brendan spent his first year at Marshall-Wythe surrounded by so many study aids that he had no alternative but to seek employment with a firm of high-powered money grubbers to fend off bill collectors from Lerner's. His hard work paid off in August, when Brendan received offers from two firms paying obscene salaries to first-year associates. "It was a difficult decision," recalls Brendan, who ultimately chose to go with a Delaware firm that serves veal at all of its associate luncheons.

Missy Callahan

Although a native of Maryland, Missy has no qualms about playing the job search game in Virginia. After a lucrative summer at Wilcox & Savage, she's willing to do almost anything to earn the kind of money that will keep her in style. "So what if the partners want me to act like a complete ditz and wear frilly dresses to the office?" says Missy. "For this kind of money, I'm willing to pretend the most important decision in my life is deciding what color to get at my weekly manicure."

Tim Belevetz

Tim decided to come to law school while doing asbestos defense as a paralegal in one of D.C.'s largest firms. After being forced to accept a job last summer with a public interest firm, he's more determined than ever to land a job where he can defend the indefensible. "Let's face it," said Tim, "Exxon got screwed in that Valdez thing. No one really cares about a seal and a few dead fish."

Wendy Voss

Wendy's professional demeanor and hard-driving push for perfection made her a much sought-after candidate for associate slots at several corporate powerhouses in Delaware. After much consternation, Wendy decided to accept an offer with the firm overseeing the resettlement of Love Canal. "The government always over-reacts in environmental situations," said Wendy. "Can anyone seriously contend that the half-life of toxic waste is more than six months?"

Cinema review: *Dead Again* exemplifies Branagh's genius

By G. MATTHEW WARREN

Kenneth Branagh's new film, "Dead Again," begins with a whisper. The viewer is witness to the whisper, aware of its import even, but the content remains stubbornly out of earshot. The curiosity which results is the stuff that suspense is made of.

Someone once asked Alfred Hitchcock what made great suspense. He pointed not to actual plot but instead to the tension between what an audience knows and what the characters must discover for themselves.

Take, for example, a man and a woman sharing dinner in a quiet restaurant. For argument's sake, imagine that they are discussing—oh, I don't know—Windex. The woman points out the pros (clean windows, presumably) while the man counters each pro with a con (streaking, perhaps). A reasonable audience could only react with boredom. Put a time-bomb under that table, however, and we got a story. Watch as the audience gasps each time the man's leg brushes against the time mechanism of the bomb, groans impatiently with every word regarding the economic benefits to the ammonia industry. From out of nowhere comes suspense. The problem for the director is maintaining that tension without becoming tedious or subverting his characters to the mechanisms of the suspense.

One of the particular gifts of Branagh, as demonstrated in "Dead Again," is his ability to place time-bombs under all the tables in his restaurant without the film self-destructing. He does so by walking a taut and dangerous line between dead-seriousness and self-parody. The unheard whisper which starts the film is just one of many instances in which Branagh creates genuine suspense and then good-naturedly mocks the audience for its interest and curiosity an hour and a half later when the secret is revealed.

If suspense has both internal and external workings, Branagh and his crew have found a knack for turning that machinery inside out, ad infinitum. In the end we find ourselves alternately gripping the arm rest and laughing at ourselves for being so involved. Even more admirably, he enables his characters to rise above the mechanics of his plot, no mean accomplishment in a story that twists and turns as often as this one does. The result is an often breathtaking ride which shows its working and straining only at the end when Branagh is forced to make a choice between self-parody and an honest resolution.

As scripted by screenwriter Scott Frank, the story vacillates between Los Angeles of the 1940s and its present day counterpart. In the present, a mysterious woman (Emma Thompson), mute and with no discernible memory, shows up at the local abbey. The charitable Mike Church (Branagh), a hard-boiled detective along the lines of Philip Marlowe, is enlisted to investigate the origins and presumably horrifying past of Grace (Emma Thompson), a mute amnesiac. It is through the hypnotism of Grace that we are trans-

ported back in time to the darker hues of a Los Angeles filmed in black and white.

Here we learn the fate of Roman and Margaret Strauss, who, ominously enough for the audience, are played by Branagh and Thompson respectively. As we have learned from the introduction, Roman was executed for the murder of his wife, Margaret. Since the present-day relationship of Grace and Church soon turns romantic, the crucial question for both the characters and the audience ultimately becomes whether fate is strong enough to transcend reincarnation. Here is the time-bomb under the table.

If the whole concept seems ridiculously implausible to you, well, it is. Branagh's genius stems from his ability to shape that implausibility into an effective tool. The implausibility is just part of his game. Branagh does such a fine job of rounding out his characters in aggressive

*Dancing About Architecture*Smithereens' *Blow Up*: Bland bubble gum

By KEVIN WALSH

About five years ago, the Smithereens burst out of the New York club scene with *Especially For You*, one of the perfect pop albums of the 1980s. The group boasted strong songwriting, tight harmonies and muscular playing, as if the Who had been asked to play a set of great unreleased Beatles songs. Pat DiNizio wrote effective songs (like "Strangers When We Meet" and "Blood and Roses"), songs about the psychosis of heartbreak that avoided the regular clichés.

Blow Up, the Smithereens' fourth album, finds the Smithereens stuck in a rut. There are bright spots, but overall it is a disappointment.

The album starts with "Top of the Pops," a song about a guy whose wife runs off with someone in a band. Anyone who has heard the band's last album, 11, will recognize "Top of the Pops" almost immediately, since it's a sound-alike for the band's near-hit, "A Girl Like You." Both songs are bland slices of bubble-gum heavy metal with a shout-along chorus. DiNizio has a way with a hook and the song is certainly lyrically interesting and melodically inventive, but it's buried under slabs of over-amped guitars. What they probably think sounds "Who-like," unfortunately sounds more "Mötley Crüe-like."

Too much of *Blow Up* follows this pattern. Songs like "Girl In Room 12" and "It's Alright" would really benefit from a simple toning-down. "Get A Hold of My Heart" is a great song that suffers from being smothered in power chords.

"Indigo Blues" is a free-for-all bar-band jam, featuring Los Lobos's Steve Berlin on saxophone, that sounds unfinished. What does "I want you to know/About my indigo" mean anyway? And why does he keep saying it? Sure it's fun to say, but it's completely shallow lyrically and we have reason to expect more from the Smithereens than a song that's fun to shout along with in the car.

The obligatory slow song, "Evening

broad strokes and sucking the viewer in through clever and subtle manipulations of suspense, that when he pulls away occasionally to parody his own genre, the implausibility becomes part of the joke, and indeed the breathtaking aspect of the film.

As director, Branagh constantly ups the ante. He takes chances. At every turn in the plot, there is a melodramatic pounding of piano chords. The camera spins around the room during a hypnotism scene. He switches back and forth in time not subtly, but audaciously, boldly using black and white for the scenes from the past.

In almost every instance, the director comes up a winner. With one daring wave of the hand, Branagh has proven that "Henry V" was no fluke. Even if the film breaks down in the end, as it arguably does, it almost redeems itself with its own grand ambitions. If nothing else, "Dead

Again" is nearly a masterpiece of directorial braggadocio.

Don't get me wrong; the director has plenty of support. Thompson, in her dual roles as Grace and Margaret Strauss, does incredibly well for the little she's given. Derek Jacobi, as the quirky hypnotist, admirably squeezes his juicy role for all its worth, and Andy Garcia shows up along the way as a frazzled reporter in a performance which comes close to outshining Bruce Willis' work in "The Bonfire of the Vanities." Even Robin Williams, who these days seems to be becoming almost too serious an actor, demonstrates that he has retained his comic form in an uncredited performance as a down and out psychiatrist. And let's not forget Branagh's contribution in his role as actor. His American accent might struggle, but at least he never loses his sense of humor about it.

Dress," sounds like a rewrite of Eric Clapton's "Wonderful Tonight." That wouldn't really be a problem (the Smithereens are nothing if not excellent at echoing the feel of other people's records) but it just sounds too stiff and rote to be successful.

This isn't to suggest that *Blow Up* is entirely without merit. The Smithereens play with an energy and conviction that is hard to resist. The best song on the record, "Too Much Passion," is a Motown-ish workout, complete with a tidy string ar-

rangement and female back-up singers. In "Get A Hold of My Heart" DiNizio's plaintive vocal brings just the right amount of desperation to the chorus and the strings add a vulnerable touch, despite the claustrophobic guitars.

As a few of the songs on *Blow Up* make plain, maybe the Smithereens are better than the heavy-metal sing-alongs they've been turning out lately. Maybe they'll come to that realization before their next album. Maybe.

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Book review

The Firm: Harvard law student turns secret agent

By KEVIN WALSH

The Firm by John Grisham

Doubleday, 1991

\$19.95 / Hardback

At the law firm where I worked this summer, there was only one other clerk. Finding that we had similar interests and attitudes toward work, we became close friends and confided in each other regarding what was going on at the firm. I soon discovered, however, that she was completely paranoid about saying anything negative about the firm in our offices.

She was afraid that they were bugged. She was sure we were being watched.

It turns out that she had read *The Firm* the week or so before coming to work. The week after I finished work, I read it too and now I understand her fears.

The Firm is about a law student named Mitchell McDeere. He's third in his class at Harvard, married to a beautiful woman, and all the top firms are knocking down his door offering him jobs. He's also got an unjustly imprisoned brother (who looks exactly like him) and, oh yeah, a dog named Hearsay. When an offer comes from a low-key Memphis firm called Bendini, Lambert & Locke that blows all the others away (\$80,000 a year, a new BMW, payment of all student loans, a low-interest mortgage loan for a house—salivating yet?), McDeere takes it.

The first 100 pages of *The Firm* document McDeere's first few months at Bendini. He works like a man possessed, breaking all firm records for first-year associates, and the firm keeps a close eye on him. A really close eye. We're told that an evil man named DeVasher occupies the whole fifth floor of the firm's offices and monitors every attorney's every move. All the offices are bugged. Cars and houses are bugged. People follow the attorneys around with video cameras and film them. At one point, DeVasher even watches McDeere and his wife as they have sex.

To summarize the rest of the novel would be as time-consuming as it would

be pointless. Bendini is, of course, not what it seems and McDeere, after teaming up with the FBI, decides to do something about it. One of the baffling things about the book is McDeere's almost instant transformation from hard-working first-year associate to scheming James Bond wannabe. Yes, he's supposed to be brilliant and hard-working, but the reader is left wondering where he got all his secret agent training. Maybe it's the Harvard Law degree.

The Firm is one publisher's obvious attempt to cash in on the market for suspenseful law stories created by the success of Scott Turow's recent successes. Beside McDeere and his wife, all the characters are pathetically one-dimensional. These "Stepford Lawyers" stumble through a plot that aspires to labyrinthine complexity, but is just confusing when it isn't predictable. When they talk, the dialogue is stiff and artificial.

Instead of cleverly extricating his characters from difficult situations, Grisham too often resorts to the perfect coincidence; at one point, the one person who can blow McDeere's cover turns out to have had a bad experience with the police in his younger years and has a problem with authority. So he doesn't turn him in. Come on, Grisham leaves too many unresolved plot contrivances at the end of the novel and the reader gets the feeling that Grisham just forgot about them in his rush to be the Legal Ian Fleming.

Some have suggested that *The Firm* might make a great movie, and they were right. The problem is that it will be more like "Die Hard" than "To Kill A Mockingbird," which should give some clue as to the depth of the novel. I'd be lying if I didn't say it kept me interested. It is a page-turner, for certain, but it is not a great novel about lawyers.

If Turow's *Presumed Innocent* or *Burden of Proof* were law textbooks, then *The Firm* would be a "Nutshell." And perhaps it's fitting that I end on that strained metaphor.



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Videoreviews

Two new films about law and lawyers

By MICHAEL REYNOLDS

Blind ambition, friendship and betrayal are the focal points of the recent video release *True Colors*. The story centers on the lives and careers of two young men who room together their first year in law school at the University of Virginia. John Cusack portrays the very driven Peter Burton who comes from a very modest background of which he is ashamed. Burton's roommate and soon-to-be best friend is Tim Garrety, played by James Spader. Garrety has had a privileged upbringing and even dates the daughter of Senator Stiles from Connecticut (Richard Widmark). Although the movie is presumably about both men, it really concentrates on Burton, whose desire to get to the top leads him to drop out of law school and work for the Senator. Garrety goes on to graduate and work for the Justice Department while Burton moves up fast on Capitol Hill, using somewhat questionable means and contacts. Eventually the two friends end up on a collision course that begins when Burton, rather than Garrety, marries the Senator's daughter and ends when Burton runs for

Congress with the backing of a shady businessman (Mandy Patinkin).

While *True Colors* is rather entertaining, it is a bit unrealistic and somewhat pretentious and overblown. The film has some good moments, often due to Cusack's acting, but it never quite rises to the dramatic (or even thematic) heights at which it aims. The betrayal of the friendship for the sake of getting ahead offers a very negative and sad view of both relationships and the drive to make something of oneself. Nevertheless, for a video rental it's not a bad choice, and I'd give it three out of five stars.

For those of you who just don't get enough law at school there is another fairly recent video release that takes a look at the legal system in a big city. In *Criminal Justice*, Forest Whitaker convincingly stars as an ex-con accused of robbing and slashing of a drug-using prostitute (Rosie Perez) in a crack house. The story basically follows the accused as he winds his way slowly through the overburdened "justice" system in Brooklyn. Jennifer Gray and Anthony LaPaglia portray the prosecutor and legal aid attorney, respectively, who guide the vic-

tim and defendant along in their journey through the system.

This movie is largely realistic with fairly good writing, acting, and directing. However, *Criminal Justice* seems to sacrifice a little too much drama and excitement in the name of realism. It is an interesting and educational movie in many regards, but it offers almost nothing that is new or provocative in terms of the justice system as a whole. The film comes across as neither an indictment of the legal process nor a flattering portrayal. Thankfully, the movie does depart from the all-too-common portrayal of lawyers as either good and righteous heroes or sleazy and clever villains. On the other hand, there is very little character examination or development, and that is somewhat disappointing considering the acting talent involved.

Criminal Justice does not try to answer any truly difficult questions, but it might have benefited from at least asking more such questions in the context of the criminal justice system and the characters we are shown. It is a good video rental, nonetheless, and I'd give it three out of five stars.



Second-year students Matt Rea (left), James Creekmore (right), and Joe Somerville (on base) wait for some action at last Friday's rain-soaked ΦΑΔ softball game.

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Campaign statements of candidates for first-year Student Bar Association representative

Gina A. Love

My name is Gina Love (yes—that is my real name). I am a 1988 William and Mary grad who has spent the last two and a half years as an asbestos litigation paralegal for Thompson, Hine & Flory in Cleveland, Ohio. (Well, at least I know what I don't want to do when I get out of here.)

I came to William and Mary again not because of the extensive night life but because I loved the area and have always been impressed with the calibre of the law school (and the Green Leaf).

I have met quite a few of you and from what I can tell, we have a great first year class and we are going to have a great first year, socially if nothing else. I must admit, I have never run for student government before but don't let that minor detail stop you from voting for me. Why? Because I think I can do a good job representing out interests to the rest of the school and the administration and I am excited about doing all that I can to make this year as enjoyable as it can be under the circumstances. Here's to a good year! Thanks.

Steven Meade

What are the requisite qualifications for a successful SBA representative? There are many opinions but one important answer is commitment. To be truly effective as a 1L SBA representative, there must be a commitment to the goals and needs of the organization. But the commitment must be more substantive than a mere desire to be part of the organization. It involves a willingness to accept the time requirements and perform the necessary work. I have the desire and determination to be a success as a 1L representative to the SBA, and I will make the necessary commitment to be a productive and effective representative of the class of 1994.

Many of us have the experience of serving as members of student government at the undergraduate level. Almost all have some knowledge of the requirements and common expectations of student governments. My personal experiences during two years of working with self-government groups has convinced me that commitment and attention to detail are the key ingredients of an accomplished student government representative.

As a recent graduate of the University of Virginia I have the experience of working within a large community and with large numbers of people. But I have also had exposure to working with a small community of students and a quite different set of expectations. I am confident of my ability to adapt to the conditions of Marshall-Wythe, the requirements and needs of the SBA, and the conditions inherent in our specialized community.

I ask for your support in the election and offer my commitment to work for the common good of our law school.

Todd Pilot

Soon you will be asked to cast a ballot for your choice of Student Bar Association (SBA) representative. You will probably ask yourself what these people are expected to do before you will be willing to tackle the principle question of who to vote for. I will attempt to discuss qualities essential to doing an effective job as a representative and illustrate why Todd Pilot should be your choice as a first year representative on the Student Bar Association.

The SBA shares responsibility for many important tasks. Most notably, the SBA allocates funds to other law school organizations, elects honor council members, members serve on the admissions council and social, professional and educational forums are arranged by SBA members. After evaluating the responsibilities, you will probably agree that the skills needed to best serve these functions include a significant degree of fiscal responsibility, interpersonal skills and a genuine desire to work for a productive and enjoyable law school environment.

My degree is in Physics. I spent a couple of years working with NASA on LASERS before I surrendered to an innate desire to work with the public. I then took a position with the IBM corporation as a scientific computing specialist. I worked on a small team with an average annual objective of thirty-five million

dollars. I did presentations to scientists, engineers and corporate executives on IBM's directions as they related to technical computing. I found the work to be extremely rewarding. However, I was never quite able to overcome the desire to learn the law. I am quite interested in law as it relates to information systems and would like to work in this arena at some time.

I was paid to be a project manager at the IBM corporation and proved that I was more than capable of initiating and managing significant events. However, the intangible characteristics you will need to evaluate your nominees on like integrity and interpersonal skills are best assessed by sitting down and talking to the candidate. I will be working in the law school computer center most mornings and encourage you to stop by and determine for yourselves that Todd Pilot should be your choice for SBA representative.

David Delk

My name is David Delk, and I am looking forward to representing the first year class in the Student Bar Association. I have various leadership experience in numerous student organizations at the University of Virginia, but I feel that certain qualities denote an effective leader no matter what the position. Student government is exactly what the name implies, student-run government; therefore, representatives to the SBA need to be approachable, reliable and dedicated to other law students.

The Student Bar Association works to promote and coordinate the numerous organizations and extracurricular activities at the law school. A representative of the SBA must be receptive to new ideas, suggestions and criticism. Reliability requires dependability and trust; as a class you should feel comfortable with your representatives' ability to appropriate funds and their knowledge of SBA activities and procedures. Reliability stems from dedication; a dedicated representative will not cut corners or fail in their appointed duties. I feel that I can provide this type of necessary leadership in representing our first year class.

I have already met a great number of my fellow 1L's, and I look forward to meeting even more of you. If elected, I believe that I can exhibit these qualities described above and promote activities in the SBA which enhance the law school experience for our class. No matter who is elected, however, I hope that all members of our class would get involved in some aspect of the law school outside the classroom in order to experience the many different aspects of Marshall-Wythe.

Laura Livaccari

Laura Livaccari, Boston College, '90, Marshall-Wythe, '94(?!!). Contrary to the horrors depicted in "One-L," law school seems to be a place where it is possible to focus on more than just Torts or Civil Procedure. In an environment which breeds stress, it's important to be involved in activities and organizations that provide a healthy release. As an SBA representative, I would like to ensure that there are activities which suit the diverse needs of our student body. I am enthusiastic about making the next three years as rewarding and pleasurable as possible, and I welcome the opportunity to discuss any suggestions or ideas with each of you.

Please vote on Tuesday, September 17th!

Tara Flynn

My name is Tara Flynn. I graduated from Williams College in 1989. I was a litigation paralegal for two years at Cravath, Swaine & Moore in NYC.

I decided to come to William & Mary Law because of its strong reputation and because I was really impressed with the friendliness and energy of the students I met during the prospective weekend in April.

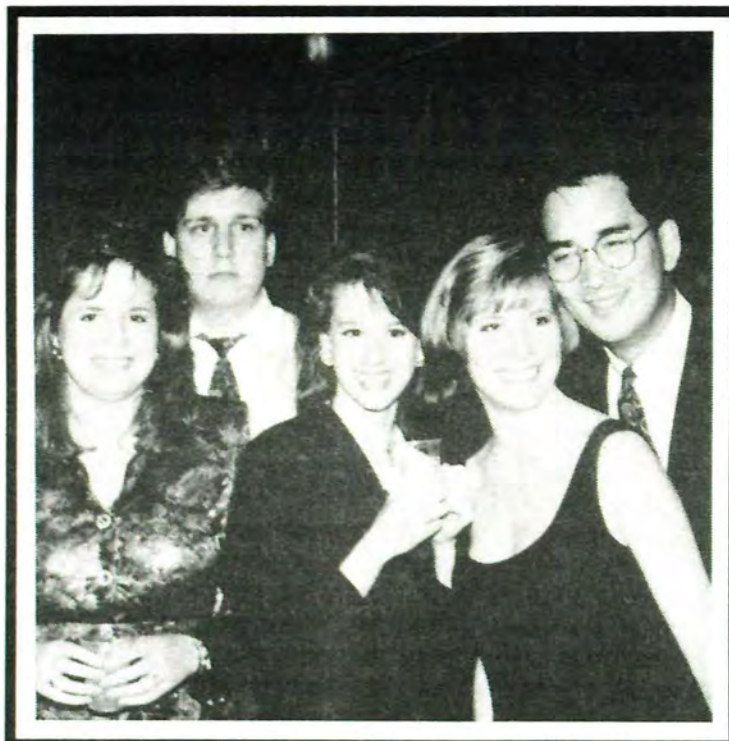
I haven't met everybody in our class yet, but so far I'm really psyched about how great we are and I'm really glad to be here. Although I do not have a lot of experience in student government, I'd like to be a class representative because I "know with substantial certainty" that I'll do a good job conveying your ideas and concerns to the SBA and I also think that this would be a great way to get to know the first year class.

Flashy Students Frolic at Fall From Grace

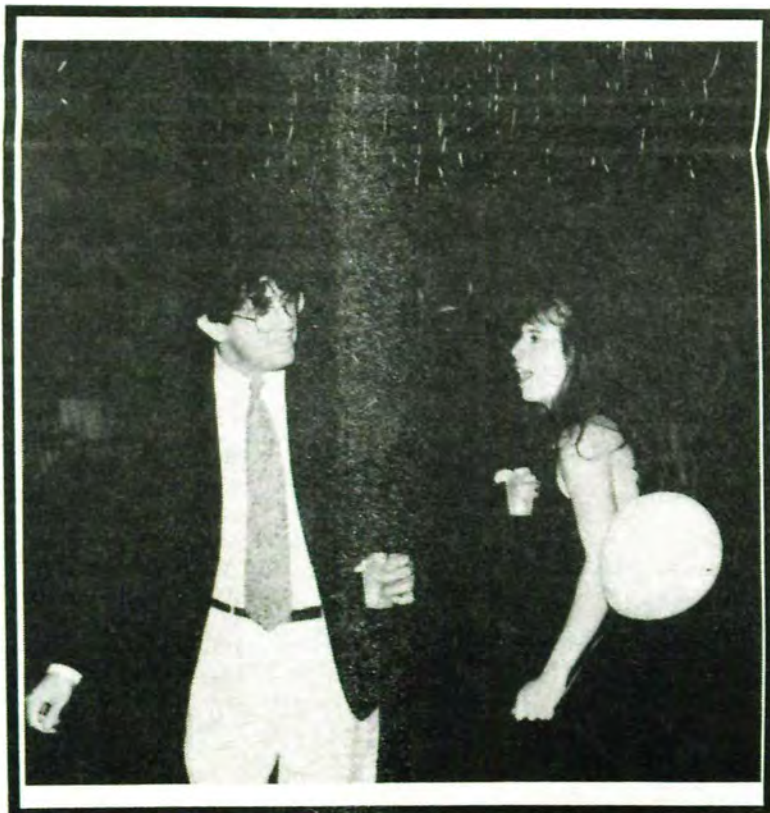
Photos by Greg Brummett



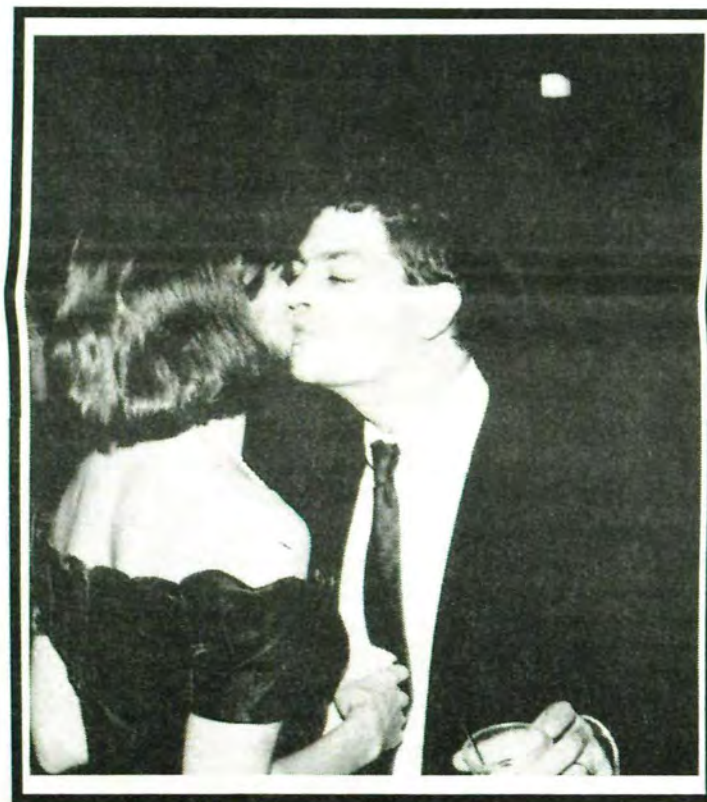
Casper (NOT a law school band) kept the crowd on its feet as hapless boogiers sloshed their cocktails onto the dance floor.



Dave Arnold ponders the brilliant smiles of his spouse Jane Taylor and friends, Michelle Joseph, Stephanie Rever and Michael Chu.



In a desperate attempt to find a girlfriend, Andrew Herzig gave several women balloons. Suzanne FitzGerald was unimpressed.



Recently married John Edwards caught in a public display of affection with his stunning wife Sheila. Classmates were amazed.



In a scene reminiscent of undergrad frat parties, a gang of first-years heckled the bartender for stronger drinks. For some party-goers, half and half mixes were simply too weak.

Ansel Adams exhibit at Muscarelle continues through Sunday

The Muscarelle Museum of Art exhibition *Ansel Adams: The American Wilderness* will close Sunday, September 22. The exhibition, organized by the University of Arizona's Center for Creative Photography, includes some of Adams' best known works, along with some rarely seen photographs.

During his lifetime, Adams was devoted to preservation of the environment. He believed that people seek their "spiritual and emotional existence" in nature, and through his photography and writings displayed an unswerving devotion to preservation of America's wilderness areas. He is particularly noted for his photos of the American West, which have achieved a status as cultural icons.

While the exhibition continues, a 60-minute video *Ansel Adams: Photographer*, is available for viewing upon request. In the film, Adams demonstrates the techniques that have made his work legendary, and discusses his life and achievements.

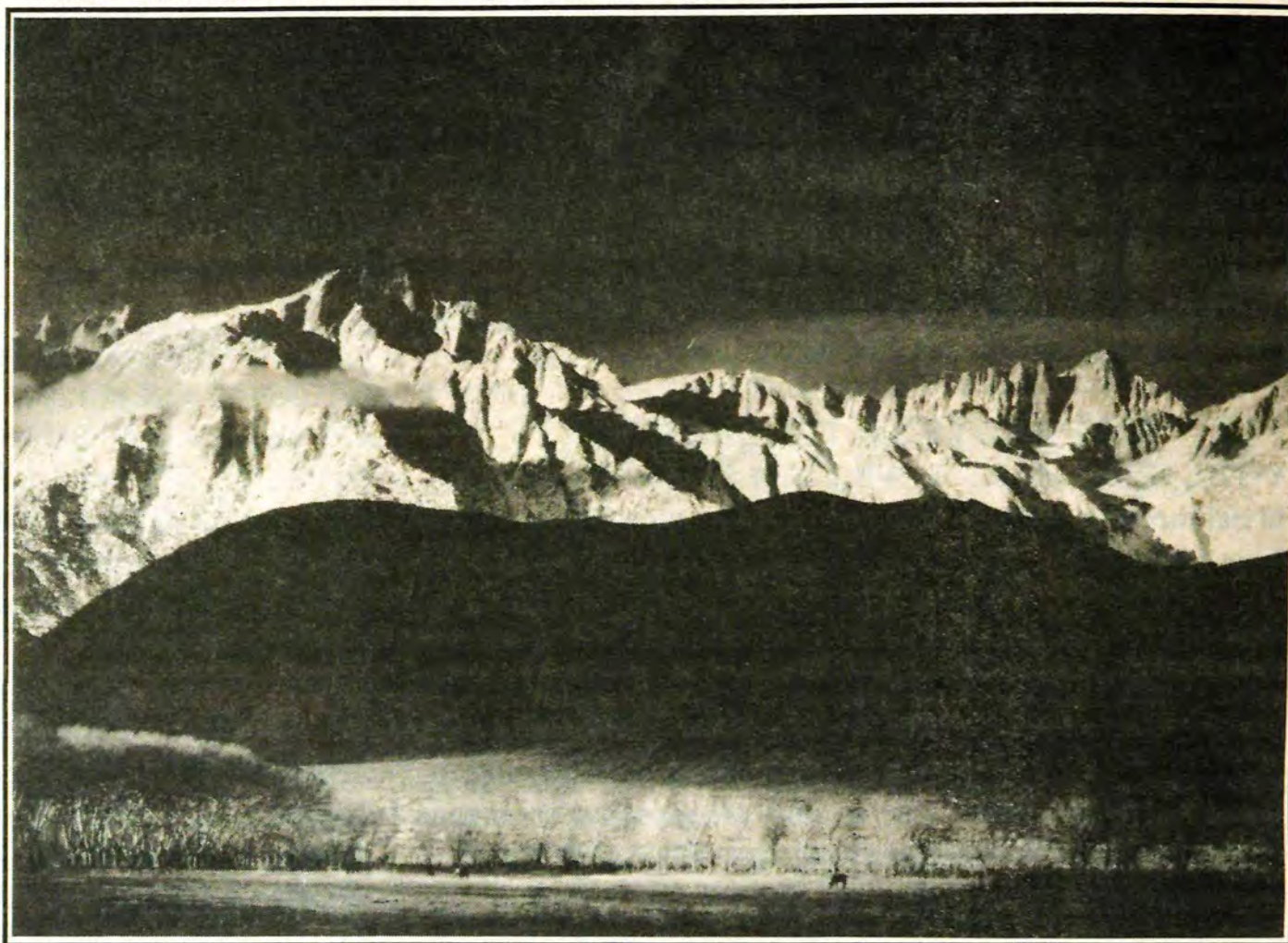
In conjunction with the Adams exhibit, the Museum has also organized the exhibition *American Indian Pottery*, which will also close Sunday. Featured in the exhibition are earthenware works created by members of several Southwestern Native American tribes.

Complementing the display are works of contemporary pottery from local Native American tribes which demonstrate both the revival of prehistoric methods

and current trends in pottery making.

The Muscarelle Museum is located on

Jamestown Road on the main campus. It is open Monday through Friday, from 10:00 to 4:45 and weekends from noon to 4:00 p.m. Admission is free.



"Winter Sunrise, Sierra Nevada, from Lone Pine, California, ca. 1962."

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Mychal's Myopia

Boxing's integrity falling and Tribe football looking up

By MYCHAL SCHULZ

The other day I saw a clip of Lou Duva, Evander Holyfield's manager, at a press conference promoting the upcoming Holyfield-Mike Tyson fight. I was shocked to hear him say, "This is more important than life or death." I thought that the integrity of sports, and boxing in particular, couldn't sink any lower. I guess I was wrong.

Boxing has been suffering from a series of setbacks over the past several years which leaves me filled with disgust. Who can forget the Tyson-Spinks knockdown brawl, over in seventeen seconds? Or the Sugar Ray Leonard cocaine admission after his latest (never say "last") comeback failed? Or the controversy over who was going to train the Olympic boxers for Seoul? Even some of the great boxing moments have been dampened by events outside the ring.

George Foreman's inspirational comeback was marred by his lawsuit against Holyfield and company for breaking an agreement for a Foreman-Holyfield rematch. Even Buster Douglas' knockdown of Tyson was spoiled by the antics of, who else, Don King. And now we're told that a fight between two men, one of whom has been indicted for sexual assault, is more important than life or death? Please. There are those who say that men like Mike Tyson are heroes to young men in the inner city trying to "get out" and make something of themselves. I worry about our society if a person like Tyson is anybody's hero.

I don't know if anybody has noticed, but some of the best, most explosive, most exciting college football this fall, will be played over at William and Mary's football field. The Tribe features a team similar to the Air-Coryell Chargers of the early 80's; i.e., their best defense is trying

to outscore the other team. So tear yourself away from NBC (a.k.a. the Notre Dame Broadcasting Corporation) and see Chris Hankel, Robert Green and company in action. Best of all, it's free.

Go Bravos! Few people, me included, can believe the Atlanta Braves are in the midst of a pennant race. I would like to see them win the pennant for one simple reason: wouldn't it be great to see that Darryl Strawberry, the supposed savior of the Dodgers, the man who would bring another championship to Los Angeles, isn't all that? In a year of overpriced, free agent flops, he is the probably the most notorious. Strawberry has hit most of his home runs against the Houston Astros. Surprised? Don't be. Even Jesse Erwin got a tryout once with the Astros, but Charlie Kerfeld told Astro management there wasn't room enough in the bullpen for both him and Jesse. Literally. The deal fell through. The floor, that is. Literally.

Contrary to popular belief, Professor Dave Marcus, criminal law guru, was not invited to Marshall-Wythe to investigate the allegation that Professor Paul LeBel supplied anabolic steroids to the Minnesota Twins. While steroids would be a plausible explanation of why the Twins are leading the AL West, LeBel claims that talent, nothing more, is the cause of Minnesota's success. Yeah, right. Last year, the Twins were so bad that Professor LeBel petitioned the League to put warning labels on tickets sold. The league refused, claiming that if the Cleveland Indians didn't put "Poorly Designed" on their tickets, nobody should have to do so. In the meantime, Professor Marcus continues to investigate whether Dean Wil-

liamson is the second coming of anything. Seeing the Dean in his running shorts, one has to wonder. Stay tuned.

The ballots from the second and third year classes are now in, and the first-year women were picked to prevail over the first-year men. The ballots neglected to mention what the women would prevail in, but those returning the ballots said that it really didn't matter. One look at the first year men was enough to convince most that the women would prevail, whether the contest was academic, domestic, and especially athletic.

How about that U.S. Open? Bratty as he is, Jimmy Connors provided a thrill to everybody in his marvelous run to the semifinals. One need only listen to the moaning and groaning of various professors in this law school about their numerous aches and pains (i.e., Alces, ankle, maybe legitimate; Rosenberg, ankle; Douglas, knee; Butler, baby, probably legitimate; Hardy, shoulder; Moliterno, razor burn three years ago, hence the beard), to realize that Connors' run at the age of 39 was remarkable.

Of course, at the other end of the spectrum, it's a little depressing to see women too young for me to date advancing to the quarter, semi, and finals. We at Marshall-Wythe were hoping to see Professor Michael Gerhardt display his tennis prowess at the Open, but after some useful pointers from Douglas, Rosenberg, etc., he came up with an injury to prevent his

participation. Luckily, he's teaching health law.

Oh, my, how far the Virginia Cavalier football team has fallen. Maryland? 17-6? No touchdowns? Don't worry, Wahoo fans, basketball is only a few months away. Looks like Virginia Tech will be the top team in the state, again.

The coveted Professor Charles Koch Award, given to the person who may actually have athletic talent, but you'd never know it by looking at them, goes to third-year Jan Brown. Despite not having played softball since middle school, fourteen years ago according to her, twenty-six according to official records, Jan hit two screaming shots that fell in for bloop Texas-league singles in her co-rec softball game last week. While accepting the award, she simply asks that you neither hit nor throw the ball within 35 feet of her. Nominations accepted via my hanging file.

Finally, a big thumbs down to the sports press across the country for their coverage of Bo Jackson's return to the big leagues. Why does a guy get so much hype when he is only an average baseball player? On top of that, he's only at 80% of his average self. Average. Rob Deer gets as many home runs, strikes out as much, which is a lot, and doesn't get the press that Bo gets. Average, guys, average. Peace.

Let the games begin

By R.L. "Somebody give me a helmet" CLAY

Sure, there are other sporting events taking place this fall, but the best entertainment value is certainly taking place at Busch Field on the College of William and Mary: Intramural Softball. Marshall-Wythe has spawned two entries in the "A" Division this year. One of those teams, Marshall's Marauders, is the defending champion (enough said). The other, Abuse of Discretion, is a young group that holds great promise.

Marshall's Marauders opened their season this past week with a hard-fought win, edging their opponent by a single run. All accounts of this game characterize it as "a true team win." Congratulations!

Abuse of Discretion's opener was against a team that went undefeated in last year's regular season. Showing off a bit of their offensive prowess, Abuse won convincingly, 15-8, with home runs provided by Scott Lesmes, Eric Chasse, Greg Richards, and Jim Entas.

In an interesting experiment conducted during Abuse of Discretion's game, the College attempted to install an air conditioning unit to heighten fan enjoyment of the proceedings (Total Attendance - 18, 10 fans rooting for the good guys, 8 for ... them). Unfortunately, while the unit did provide great gusts of air flow, it was at best inconsistent. Thanks to Pat Connolly Heating & Air

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ATTACKS, from page 1

throughout the law school. The notices gave physical descriptions of the attacker or attackers. One female student said she was pleased the notices went up so quickly, but was surprised the College administration had them posted. She said the college usually is not so forthcoming with information of this sort.

Sadler refuted this statement in an interview with the *Amicus*, saying that the notices "are always circulated whenever an assault like this is done on college property." Some students nevertheless voiced concern after the *Flat Hat*, in its Friday, September 13 edition, reported that a third incident had occurred on Sunday, September 8 involving a woman being chased on Prince George Street by a man fitting the same general description as the assailant involved in the earlier attacks. In that case the woman, though not a William and Mary student, escaped her pursuer by running into a nearby dorm.

No notices informing the college community of this attack were posted.

Sadler said that when assaults are committed off campus, he uses his discretion in determining whether notices are warranted. Because the first two assault victims were graduate students, he felt the notices should be posted. Sadler said such notices are usually distributed within twelve hours of the reported assault, even if it occurs in the middle of the night.

According to Sadler, the notices serve two purposes: to alert students to the danger and to control rumors. Apparently rumors were not completely avoided as the Office of Student Affairs has received several telephone calls concerning the "rapes." On Friday, Sadler sent a memo to the *Advocate*, the *Amicus Curiae*, and WCWM asking the news organizations to clarify that while the students were sexually assaulted, the attacks were defined as attempted rape, not rape.

Sadler said he has had daily communications with the Williamsburg Chief of Police and, as of September 13, knew of

no suspects apprehended in either case. Sadler said he intends to notify Dean Connie Galloway if and when a suspect is apprehended.

While both victims were graduate students, the assaults did not occur on College property. John Coleman of the campus police said, "for the most part this has been a City [police] investigation." Coleman indicated that campus police have been assisting in the investigation by checking addresses, verifying information and doing similar work. Coleman asked that students be reminded that the College does have a sexual assault hotline. The number of the hotline is 229-7585.

While some female students have changed their behavior due to the incidents, others have not. "I'm always cautious," said Lisa Nicholson (2L). She added that she was never lulled into a false sense of security by the small size of Williamsburg.

Jody Anderson (2L) said that she always tries to look aware of her surround-

ings, and walk as if she has a purpose and knows where she is going. Regarding the assaults she said, "it bothers me, but there is not much I can do about it."

Another student said the attacks have not changed her behavior at all. She purchased a can of Lightning Bolt mace for about \$23 and keeps it with her at all times.

Belinda Hatzenbuehler (2L) said that the attacks have changed her behavior. She is more reluctant to come to the law school at night and now tries to get her schoolwork done in the daytime. She commented, "I have no great fear, but I want to put myself at less risk."

Several male students commented on women's safety. Rich Hricick (2L) advised, "we all should take on a greater responsibility to be sure women get to their cars or wherever they're going safely." He added that men should be more aware of the problem and offer to walk women to their cars. Brett Johnson (2L) added, "I'm always willing to walk my female friends to their cars."

AIDE, from page 3

glamorous concerns of Virginians, and that such a situation led the administration to skew its priorities.

Dillard also attacked the frequency of the governor's absence from the state, and his lack of involvement in important policy determinations while laying the groundwork for his presidential bid. "The cabinet's responsibility is not to lead," she asserted. "That responsibility is the governor's and this governor has not met it."

The former press secretary, nicknamed "Mad Dog Dillard" because of her vehement defenses of Wilder at the state house, had sharp words for the manner in which others curry favor with the governor. While she continually referred to Wilder as "extremely personable," she said close aides are unwilling to challenge him for his lack of attention to the homefront because he does not tolerate criticism or bad news. "It's a tough message to communicate," she explained, and "no one wants to be put in that position."

Several media accounts of Dillard's departure this summer focus on her stormy relations with Paul Goldman, chairman of the state Democratic party, and J.T. Shropshire, the governor's chief of staff. Both are enthusiastic supporters of a Wilder presidential bid and are his closest confidants. In her comments last week, Dillard said, "The

governor must realize how unhealthy his reliance is on one or two individuals."

While still fresh out of college, Dillard was hired as press secretary for then lieutenant governor L. Douglas Wilder at the age of 23. Within two years, both she and her boss received important promotions. He became governor and she advanced to a \$65,000-per-year job as his press secretary.

But by July of this year, the former student of religion called it quits and announced her controversial resignation from the position many political junkies would spend a lifetime coveting.

Dillard grew up in affluent Chesterfield County near Richmond. As a teenager, she recalled being thoroughly unimpressed with state senator Douglas Wilder, an ambitious "media hound." But during her years at William and Mary something happened to the philosophy of this conservative daughter of suburban, Republican parents, and her politics began a leftward trend.

Despite her major in religious

studies, Dillard felt she "needed a break from religion" and sought a college internship with the state government in Richmond. While most prospective interns had studied political science or economics, her background seemed a curious, even ironic, choice for the political realm. Not knowing where she would best fit in, coordinators of the program placed her with an officeholder who also rarely "fit in," maverick lieutenant governor, Doug Wilder.

Though not an initial Wilder fan, Dillard said she quickly became a devoted staffer. She came to admire the personable Wilder for his excellent political instincts, sense of humor, and obvious concern for people. Once her internship concluded, Wilder had also come to appreciate the talents and intense loyalty of Dillard. He offered her a job as his press secretary.

After writing the lieutenant governor's speeches and handling his press relations for a year, Dillard returned to less worldly pursuits and began degree work at Yale Divinity School. Within a year,

she was again summoned to Richmond to serve as press secretary for Wilder's gubernatorial campaign.

"In Doug Wilder, for the first time, there was a chance that all the people of Virginia would have a real voice in state government and decision-making.... [T]here was great reason for hope," she told the William and Mary audience. After Wilder narrowly defeated Republican J. Marshall Coleman in the general election, Dillard recalled with pride the decision by Virginians to "place the past full-square behind them" by electing the nation's first black governor.

Dillard praised Wilder for doing more for minorities and women than any governor in Virginia history, and also noted the success of his anti-drug poli-

cies. She credited him with making the governor's office more accessible, citing the open-house he holds once a month in different parts of the state. Anyone who wishes to speak with the governor may attend one of these events.

But the priorities of the administration eventually led Dillard to the conclusion that she no longer had a role to play in the executive branch. Last Thursday she put the responsibility for correcting what she sees as misdirection in the State's government squarely on Wilder's shoulders. "Most important," she said, "the governor must recreate an atmosphere in which senior staff and cabinet can offer honest opinions. The choice lies with Doug Wilder alone."

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