February 2003

February 2003 Docket

Georgia State University College of Law

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By Matt Knoop

An interesting facet of the possible war with Iraq presents a question to the legal scholars among us -- what has what type of authority in foreign affairs? Article II, section 2 of the Constitution begins by proclaiming the President the commander in chief of our armed forces, while Article I, section 8 states that Congress has the power to declare war. Our separated system of powers demands such checks and balances among governmental branches that often find themselves diametrically opposed.

Recent history demonstrates numerous commitments of troops to battle in spite of Congressional silence, and this action raises questions about our executive office's presence in an area textually committed to the legislative branch. Presidential authority over foreign affairs has remained a central issue in separation of powers scholarship since the executive branch committed troops to the conflict in Vietnam.

On January 31st the Georgia State University College of Law welcomed to its annual Symposium a panel of distinguished scholars to speak about constitutional issues, and Prof. Jefferson Powell of Duke University is an interesting facet of the possession of that power.

By Brook Silverthorn

The Facts

Senate Bill 440 (SB 440), passed in 1994, requires children between the ages of 13 and 17 to be prosecuted as an adult if the child is accused of committing one of the offenses called the "seven deadly sins" in Georgia. Under SB 440 the "seven deadly sins include murder, rape, armed robbery (with a firearm), aggravated child molestation, aggravated sodomy, aggravated sexual battery and voluntary manslaughter." Although children under the age of 13 can be prosecuted as adults in Georgia, the decision to do so is determined by the juvenile court, as was the case for children 13-17 prior to SB 440.

On January 31st the Georgia State University College of Law welcomed to its annual Symposium a panel of distinguished scholars to speak about constitutional issues, and Prof. Jefferson Powell of Duke University is a senior specialist in separation of powers with the Congressional Research Service of the Library of Congress argued a texturalist position. Because the text gives Congress the power to declare war, the responses to the panel discussions favored an ad hoc approach to the split of authority, with history lending its position to the President. He maintains that both Korea and Vietnam were wars and the President's commitment of troops to each indicates the executive office's authority over foreign affairs.

During the morning panel two speakers favored Congressional allocation of power in foreign affairs. Prof. David Adler, an author of numerous books on constitutional interpretation, argued that if the Founders had wanted to create a monarchy, they would have done so. In choosing to instead create a republic, they indicated their preference for separation of powers.

Dr. Louis Fisher, a senior specialist in separation of powers with the Congressional Research Service of the Library of Congress argued a textualist position. Because the text gives Congress the power to declare war, the President cannot command troops in war until Congress has acted. Prof. Robert Delahunty, the Deputy General Counsel of the White House Office of Homeland Security, disagreed completely and favored constitutional allocation of power to the executive office. He advocated a position based on context. For example, the Federal Army at the creation of the Constitution had seven hundred soldiers. The nation faced encroachment on all borders. For this reason, the Founders intended that Congress provide the President with the power to respond to threat quickly and flexibly.

The Reality

Since 1994, many have hoped, prayed and even lobbied for SB 440's repeal, but the legislators were not willing to listen. Fortunately, that all changed when Senator Vincent Fort announced a public hearing on the issue, in order to hear from the community about the real life effects of SB 440.

At 7 pm sharp room 317 of the Legislative Office Building was already filled beyond capacity. The rainy weather outside could not keep this crowd from the opportunity to speak out against SB 440 to legislators who were finally willing to listen. There were 6 legislators in attendance and the crowd was primarily comprised of those whose lives, both professional and personal, have been directly affected by SB 440 - mothers, fathers, siblings, attorneys, clergy, and judges to name a few.

The family members spoke about the same tragic circumstances that face kids incarcerated under SB 440. In fact, the legislators were particularly interested in whether, contrary to the word of the Department of Corrections, adults have access to juveniles in prison.

In Georgia, Lee Arrendale prison houses juveniles convicted under SB 440 until they turn 17. Supposedly, the juveniles are kept separate from the adults. However, parent after parent told the legislators that their sons were in fact being exposed to and barraged by the adult at Arrendale. One mother said, "my son's friend is 46 years old." And a 15 year-old was told by a prison guard, "if you don't want to be the victim, you must become a predator." Another mother, whose son was sent to prison at age 15, testified that she paid extortion money to adult inmates in order to save her son's life, after he was declared the "property" of an older inmate and sold for sexual favors.

Furthermore, a representative from the Southern Center for Human Rights testified to an incident that happened at Lee Arrendale prison in which several juveniles were escorted to a field outside and strip-searched in front of their adult counterpart-while cars passed by on the side of the road. A lawsuit is currently pending against the prison on failure to protect grounds.

The Answer

Several mothers from the organization Mothers Advocating Juvenile Justice (MAJJ) told the legislators that they will not be satisfied until SB 440 is completely off the books. MAJJ has been diligently fighting to repeal SB 440 for years, and their diligence just might pay off. Mr. Schindler, an attorney with the Youth Law Center in Washington D.C., informed the legislators that there is absolutely no research to support SB 440 and other bills like it as an effective way to reduce juvenile crime.

And not only is it ineffective, it doesn't work.

The research shows that juveniles convicted and sentenced in the adult system are more likely to re-offend and to do so in committing more serious crimes. At the hearing, 6 legislators became aware of the horrors this bill imposes upon our society, our families and particularly, our children. And as soon as they became aware, they all vowed to do something. Now, we have to make the other 230 legislators aware of the realities of SB 440. Maybe then the juveniles in the "justice" system of Georgia just might have a chance.

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The Capitol Report: 2003 Georgia Assembly

By Jon Pannell

On Monday, January 13th, the 2003 session of the Georgia General Assembly opened with many new faces in and around the Capitol, and some heavy politicking between both political parties over leadership under the gold dome.

On Monday morning, Terry Coleman a Democrat from Eastman, was elected Speaker of the House of Representatives replacing the long reignig Tom Murphy, who lost a Representative House, but will be hard to pass through the democratically controlled House. Other legislative issues that are expected to come up this session will be a re-visitation of predatory lending policies, tort reform relating to medical malpractice suits, and ethics reform. Governor Perdue has already given directives to his staff regarding ethics reform, and there is a good chance he will push the Legislature to do the same.

The General Assembly was in recess for the January 20th to allow time for Appropriation hearings. The Legislature re-convened on Monday, January 27th for the 6th day of the required 40-day session. The Legislature has 30 days to pass Governor Perdue's State of the State address. This years session will be an exciting one to watch, so stay tuned!

Jon is a lobbyist at the state capitol and a part time law student. Jon suggests hunting down Doug Teper, a state representative from Atlanta and a part time student, with questions.

The Democratic Party still holds a strong majority in the Georgia State House, but their control over the entire Capitol has come to an end for the first time in 130 years. The Governorship and the State Senate are now in the hands of the GOP due to the November elections and some party switching that occurred after the elections. In the State Senate, the Democrats have retained the title of President of the Senate, with Lieutenant Governor Mark Taylor presiding. However, Eric Johnson, a Republican from Savannah who was elected President Pro Tempore of the State Senate, has assumed some of Governor Perdue's powers as the Republican controlled Senate adopted several rule changes on the first day of the session.

The GOP now controls a majority in the Senate for the first time since Reconstruction. The grand finale to the session's first day fireworks was Governor Sonny Perdue's swearing in. Governor Perdue, a Republican from Bonaire, was sworn in as Georgia's 81st Governor. Perdue defeated incumbent Governor Roy Barnes in the November election, and his election has been touted as one of the biggest upsets in Georgia political history. Monday ended with an inaugural celebration for the new governor at the Georgia World Congress Center that included a special appearance by Ray Charles.

The remainder of the first week of the 2003 session was not quite as exciting as Monday's events, but continued to keep the Legislators, lobbyists, and staff members at the Capitol on their toes. On Wednesday, Governor Perdue introduced a $620 million for the upcoming budget proposal for supplemental 2003 and fiscal year 2004. To the surprise of many people, the governor announced tax increases to counter the estimated budget shortfall of $620 million for the upcoming year. The Governor's proposed tax increases included a "sin tax" on cigarettes and alcohol, and a raise in property taxes by lowering the current property exemption rate. Mixed emotions followed the announcement. Most notably from Republican Legislators who were upset that as it was the Governor's first session that the state's General Assembly would mention the words "tax" and "raise" in the same sentence.

The legislation, the budget session, is the biggest issue that everyone is talking about. Most of the 2003 legislative session will be spent trying to balance a budget gap in the current down economy. Of course the flag debate, which is already on many people's minds, will probably be introduced during the session, as well as the possibility of re-opening the redistricting debate. Both of these issues could probably make it out of the GOP controlled Senate, but will be hard to pass through the democratically controlled House. Recent legislative issues that are expected to come up this session will be a re-visitation of predatory lending policies, tort reform relating to medical malpractice suits, and ethics reform. Governor Perdue has already given directives to his staff regarding ethics reform, and there is a good chance he will push the Legislature to do the same.
Point / Counterpoint

By Brian McCarthy

In 1992, the Supreme Court struck down forced busing in the case of Freeman v. Pitts, 503 U.S. 467. The court indicated that when the school system begins with a good faith based commitment to desegregation and the resegregation is based on private choices, then the actions do not have constitutional implications.

Students should not have to be bused across the county or city in order to assure a desegregation level. Many communities talk of the "white flight" to suburban areas and support that the resulting resegregated schools must be remedied by the courts through forced busing of the students. As the court in Freeman illustrated, if resegregation is the result of free choice, i.e. where to live and raise your family, then these actions do not present any constitutional implications and cannot be remedied by the courts.

All of this, of course, assumes a good faith adherence to desegregation by the school system. The school system in Freeman was actually DeKalb County here in Atlanta. The school system had illustrated a good faith adherence by minority hiring practices and distribution of funds to predominantly minority schools. As a result, the violations which occurred in 1969 become too attenuated for the court to find these actions were the direct cause of any current resegregation.

Justice Kennedy illustrated this point in Freeman by stating "as the de jure violation becomes more remote in time and these demographic changes in-tervene, it becomes less likely that a current racial imbalance in a school district is a vestige of the prior de jure system.

I believe that the Supreme Court made the correct decision in eliminating the forced busing practice for a variety of reasons. First, people should be allowed to live and raise their children where they choose. Second, there are other remedies available to the court and communities besides forced busing. And third, there are studies which actually show that Brown remedies have some times hurt the education which minorities receive.

The bottom line for me revolves around a freedom of choice when it comes to raising a family and choosing a community. Human beings naturally gravitate to neighborhoods and communities with whom they share common values. A family should be allowed to choose a neighborhood based on their own family values and then expect that their children—black or white—will not be bused to some other community in order to assure a racial balance. Many diverse communities and neighborhoods are based on demographic choice rather than any sort of "white flight."

Counterpoint: Busing is needed to overcome demographic factors

By Erica Jenkins

"As I stand here and look out upon the thousands of Negro faces, and the thousands of white faces, intermingled like the waters of a river, I see only one face—the face of the future."

Martin Luther King Jr. spoke these infamous words before a Youth Now, over four decades after his assassination. The same is true today as it was true then.

Second, a well developed body of research supports that desegregation, at least under certain circumstances, has enhanced the "life chances" of minority children with no detriment to whites. Controlling for the relevant measurable variables, school desegregation appears to increase educational achievement for minority students and enhance their "life chances" as measured by a variety of social indicators. Gary Orfield, Susan E. Eaton, and The Harvard Project on School Desegregation: "A Dying Reversal of Brown v. Board of Education" (1996).

This country has made great strides towards educational equality. Yet, we hope that there will be a time when integration may someday end without a forced government effort to preserve it. Yet, it would be naive to argue that time has come. Thirty years may seem like a long time, but in the history of America—on the heels of 90 years of Jim Crow and 200 years of black slavery—it's nothing. Ironically, busing will become unnecessary only when no one continues to oppose it.

Introduction: History of Student Busing

Ever since Brown v. Board of Education, the courts and communities alike have tried to figure out a way to best ensure that desegregation becomes a reality within the school system. As a result, some states have enacted policies which effectively bus students from one district to another in order to guarantee a certain racial mix.
The Docket 2003 Writing Competition

Cash and Publication Awards

**Publication Award:**
Winning entries will be published in the March Edition of The Docket

**Cash Awards Sponsored by BAR/BRI:**
1st Place = $250
2nd Place = $150
3rd Place = $100

**Submission Entries Due:** Monday, February 24, 2003 by 5pm

**Entry Criteria:**
- Length: 500-650 words (two pages, 8.5x11, double spaced). Articles exceeding 650 words will not be considered.
- Topics: Papers should present an issue in our legal system and comment on its implications. They may be based on class discussions, current events, politics, international policy, legislation, etc.
- Entries: Students may adapt papers written for class credit. Articles previously submitted to The Docket will not be considered. All entries become the property of The Docket; winning entries will be published in the March Edition of The Docket and other entries may be published in future editions as determined by the Executive Editorial Board.
- Entries: Competition is not open to The Docket Editorial Board. Docket writers may enter.

**Judging:**
Prof. Podgor, Prof. Scott, and Prof. Sobelson will be judging the competition. All entries will be marked by number upon submission so that judging is anonymous.

**Survival Tips for Wedding Planners**

By Brian McCarthy
Managing Editor

I am not sure about the 1L or 3L class, but here in the land of 2Ls, we have had a plethora of recent engagements announced by happy students. Upon brief moments of reflection, I have decided to declassify many of my secrets regarding the survival skills necessary to make it through the wedding planning and get married on that special day.

Just so everyone knows where my vast experience comes from, on March 2nd I will have been married all of one year. Now, sure that does not represent any sort of medalion anniversary by any means, but I was able to trick my wonderful bride into saying "I do" after eight long months of wedding planning. That in and of itself is one heck just like your friend's wedding that the two of you went to a few months ago.

"First and foremost, gentlemen, never, and I mean NEVER, say the words "I don't care." Whether it is a refection chair covering that is white or bone, believe me - you care. You must always be aware of the fact that while you have spent all of five minutes thinking about the ceremony, your lovely bride-to-be has been dreaming, thinking, contemplating her wedding day since she was a 4th grader and got to be a flower girl for some distant relative. If you say "I don't care," then that means that you do not care about the wedding which in the girl's mind means that you are having second thoughts and that is not a conversation you want to have in the middle of the Rich's bridal registry department.

So guys, you can see the tight rope that you will have to walk for the next several months. On one side you do not want to get too involved, because then you could be spending hours choosing which type of napkin will be on the table. Or worse, you could be accused by the future bride of "taking over" the wedding and trying to make it just like your friend's wedding of the two that you went to a few months ago.

On the other side is the forbidden "I don't care." The easiest way to survive is to ask your lovely bride-to-be for her top three choices in everything. Then you can pick which one is your favorite and you have done the requisite participation and shown a moderate level of interest in which size wine glass to register for. You can apply the "Ranking Method" to any of the mundane choices you will be faced with in the coming months: napkin size, napkin ruffle length, tablecloth length over the reception tables, fine china selections, everyday china selections, fine silver, everyday silver, crystal, everyday crystal, fine pots, everyday day pots. You get the idea.

While the "Ranking Method" did manage to keep me sane over those eight months of wedding planning (that's another thing, make the engagement as short as possible, maybe even elope to Vegas if she is up for it. But only ask for this ONE time), the second most important secret would be to register at all the stores on the same day. Otherwise the process could drag on for months. Hit all the stores—Rich's, Ross Simon's, Crate & Barrel—on the same day. Now, you may need some major guy time afterwards, but it will be worth it when it is all done and you never have to do it again. Some of the stores actually are not all bad - at Rich's you even get this little gun thing, but unfortunately no holster.

Third, you want to try and keep your mother out of it as much as possible. However, you do get a chance to talk to during the reception, you are missing vital beach time on some island with an umbrella drink if you choose to go to them instead of catching that first flight.

Above all remember, when you turn around in the church to be introduced, you will not be happy about the wedding ceremony, etc., you have accepted that fact a long time ago and have had the entire engagement to be happy. You will be happy because the wedding planning is over.
On November 13, 2002, Dr. Robert R. Friedmann, a professor in Georgia State University's Criminal Justice program, spoke about the conflict in the Middle East and what that conflict means for the United States today. The Jewish Law Student Association sponsored this timely program.

Dr. Friedmann, who spent nearly half of his life in Israel before coming to the United States to attend graduate school and teach, opened the program by discussing the historical factors behind the creation of Palestine and Israel. He said most of the historical factors were not religious but actually geopolitical, because in ancient times the Middle East was the "center of the world," or, as Dr. Friedmann analogized, the corner office with the best window. Whoever possessed this region had the most control. He said that importance is now starting to decline. Dr. Friedmann paid particular attention to the Roman occupation, the Crusades, the Dreyfus case, and the key developments in the 20th century, including the partition in 1948 and the attacks on Israel in 1967 and 1973 (the Yom Kippur War).

After laying out the historical background, Dr. Friedmann discussed why the conflict in the Middle East is so important now. He criticized the Palestinian Liberation Organization, as well as other Arab countries in the area, for their "strategic, conscientious decision to use violence for a better share of the pie," and he said that Arabs are now engaged in a zero-sum game.

For the United States, this conflict is important because the forms of violence used in the Middle East can be copied and adapted here. It is easy to look at the suicide bombers in Tel Aviv and analogize them to the sniper and anthrax attacks in the United States. It is even easier to make a connection to the events of September 11. Dr. Friedmann said that the United States' fixation on individual identity, such as Ollie and Yasir Arafat, is wrong. The West should focus on strategies and interactions to solve the problem. The United States is facing this problem currently with the conflict with Iraq and the war on terror, which experts predict could last between five and thirty years.

Dr. Friedmann concluded by answering a question in regard to what Israel is willing to give up in the struggle. He replied, "If Israel allows itself to commit suicide, the West is not far behind. Israel is the canary in the mineshaft for the West."

Dr. Friedmann alluded to past debates he has had with Arabs in similar forums, and he said that those debates often became emotional instead of intellectual. Here, Dr. Friedmann portrayed this very emotional topic in a rational and objective way that might not have been possible in a roundtable format.

**STLA Hosts International Students**

**By STLA Coach, Tom Jones**

Student Trial Lawyer Association (STLA) members Jim Wall and Lance Tyler gave a mock trial demonstration to approximately 40 international students visiting Atlanta over the Christmas holidays. This marked the 15th year STLA has staged a mock trial demonstration for visiting students. The students come to Atlanta under the auspices of the Atlanta Ministry for International Students. The Ministry sponsors the students over the Christmas break because they are not able to return to their native countries. They live with host families and have tours of Atlanta. One of the highlights of their stay is the tour of the Fulton County Courthouse and the mock trial demonstration.

Few countries have trial-by-jury. In fact, over 90% of all jury trials take place in the United States. During their tour of the Fulton County Courthouse, the visiting students were shown the introductory film shown to all prospective jurors that explains the duties of a juror. They then went to Judge Henry Newkirk's courtroom where the judge presided over the mock trial demonstration and explained his role as a judge. Jim Wall and Lance Tyler represented the GSU College of Law at the National Trial Advocacy competition at Michigan State. They did an outstanding job, finishing fifth in the competition. In fact, GSU was the only team to beat Florida State. However, since Florida State had more overall points, they advanced to the final four, and subsequently won the National Championship. Jim and Lance presented various aspects of the competition's murder trial to the international students, who marveled at their advocacy skills. The students again rated this program hosted by STLA as the best part of their stay in Atlanta.

**PILA Auction**

PILA invites you to join us for a Full Catered Dinner and Drinks at the 11th Annual P.I.L.A. Auction this Saturday, February 8, 2003 starting at 6:00pm at the Inman Park Trolley Barn.

Place your bids on items such as condo's, airline tickets, sport's events, gift certificates, dinners with Professors and much more...

Don't miss out on seeing your favorite Professor placed on the spot (as we often are) singing karaoke for the entire audience at the Auction!

Tickets on sale now in the lobby! For more information contact: Christa Kirk (404) 641-9423 or cirkil1@student.gsu.edu

**Christian Legal Society**

**By Tracy Allman**

What is the relationship between faith and legal thinking? And how does one's faith affect one's day-to-day practice of law? As a culture, we tend increasingly to think of faith as an entirely private and subjective thing—useful for one's own comfort and enjoyment, and perhaps also to inform one's sense of personal ethics, but of little application otherwise. But for the Christian, the matter can't be left at that. The primary commandment given in the Judeo-Christian Scriptures—"You shall love the Lord your God with all your heart, with all your soul, and with all your mind"—is unlimited; it applies to every person, in every place, time, thought, word, and deed. The Christian Legal Society has concentrated this year on understanding how our love for God—a love made possible only by His original and overwhelming love for us—works itself out in our understanding of law, and in the way we will approach our practice after law school.

Throughout the fall semester, we conducted a study in which we examined Biblical principles of jurisprudence. It's easy enough to take a "religious" position on a legal issue (especially a controversial one); but the point is that love of God moves us to go deeper—to find the foundational truths on which all our thinking should be based, and then to build up that thinking in love—first for God, and then, consequently, for our neighbor. In Proverbs 8: 15-16, the personified Wisdom declares, "By me kings reign, and rulers decreejustice. By me princes rule, and nobles—all who judge rightly." In the same chapter, this same Wisdom is shown to be the wisdom by which all of us ought to lead our lives, and the wisdom by which God created everything that exists. That all three, would be the same wisdom is starting enough to the contemporary mind; but then, in John 1:3 and 14, we find that this Wisdom is no mere abstract system, but the Word through Whom "all things came into being" and Who "became flesh, and dwelt among us." That is, Wisdom is not impersonal "reason" or "logic," but a person—Christ. From this standpoint, we discussed the Christian view of man, government, and of the nature of law.

On January 29, local plaintiff's attorney Tom Brown spoke to us about the way in which the Christian's faith and love manifest themselves in the course of everyday practice. Mr. Brown focused on the importance of an attorney's relationship with his or her client; he noted that it was easy to get lost in the work and lose sight of the person, and urged us to keep an eternal perspective. "None of the motions you file, none of the arguments you make will go on to eternity," he said. "The people, they go on." He warned us against the easy pitfalls of greed, anger, and dishonesty, and reminded us that to yield to them was to disserve the client in numerous ways.
As the spring semester moves into full-gear, your Student Bar Association has organized another packed semester of activity. In honor of our 20th Anniversary, we’re continuing our tradition of excellence through historically successful programs and enhancing that tradition with new SBA events.

In February, we hope to begin a new tradition here at GSU Law with our “Faculty and Staff Appreciation Reception.” Although all of us are grateful for the tremendous efforts of our professors, our administration, and our law school personnel, it is not everyday that we take the opportunity to express our admiration. On Thursday, February 20, please come join us in giving thanks from 4:00 until 6:00 in the West Hall Exhibit area on the second floor.

In the spirit of community service, we are planning a second “Party with a Purpose” on Friday, March 14th. Although the party will have a St. Patrick’s Day theme in celebration of luck and fortune, the SBA will be collecting homeless shelter supplies for those who are not as blessed. Collections will also be accepted all week for those who are unable to attend the event.

Additionally, March will provide an excellent opportunity for networking, as the SBA works to collaborate with the Atlanta Bar Association on two events. Although the dates and times are still being finalized, we hope to have a representative of the Atlanta Bar deliver a presentation on the benefits of becoming a member, followed by a social reception where current Atlanta Bar members get to know GSU law students.

Finally, our annual Law Week tradition has been set for March 31 through April 4. Although it is still months away, we’ve already begun the preparations to make our anniversary year spectacular at our first Law Week Planning Meeting last month. This year’s theme will focus on changes we have seen over the last 20 years, in our school, our laws, and our country. We will also take special notice of the role that balance has played in shaping these changes. Student organizations have already begun working to arrange speakers and activities for this law school tradition. The spirit of this tradition begins at our Law Week Kick-off Party on Friday, March 28, and culminates in the spectacular Barristers’ Ball on Saturday, April 5th.

On the last day of exams, the SBA sponsored a holiday “Party with a Purpose” at Smith’s Olde Bar. Everyone who attended received free food and drink specials in exchange for donating a small toy for “Toys for Tots.” It was a delight to see students and faculty together, celebrating the completion of the fall semester and the spirit of the holiday season. There was also live music, billiards, and a few friendly political discussions. We collected over 30 toys for “Toys for Tots” to help make the holidays a little brighter for Atlanta area children. This is an event that we hope to become a tradition at GSU College of Law. Be sure to attend our second “Party with a Purpose” this spring!

Join us Thursday, February 20th for our first annual “Faculty & Staff Appreciation Reception” from 4:00-6:00 pm in the West Hall Exhibit Area!!

February
3 - SBA Meeting (4:30-6) in Room 170
17 - SBA Meeting (4:30-6) in Room 170
20 - Faculty/Staff Appreciation Reception 4-6 (2nd floor West Exhibit Hall)
21-23 - Spring ABA Meeting in New Orleans
17-21 - Spring SBA Election Nominations Accepted
24-28 - Spring SBA Election Campaigning
25 - Townhall Meeting (1-2) and (5-6)

March
10 - SBA Meeting (4:30-6) in Room 170 Spring SBA Elections begin
14 - St. Patrick’s Day Party with a Purpose
17 - SBA Meeting (4:30-6) in Room 170
23 - Deadline for Student Organizations of the Year Applications
26 - LL Library Jumpstart Program 12-1
28 - Law Week Kick-off Party (7-7)
31 - Law Week begins

April
1-4 - Law Week (cont.)
5 - Barristers’ Ball
7 - SBA Meeting (4:30-6) in Room 170; Transfer Administrations
I'm remembering being at the College of Law when the Docket came out with its first issue. Kaminshine was teaching Civ Pro. Tom Jones was coaching the mock trial team. Hogue was dropping bread crumbs for the slower of us to follow. In our effort to understand the basics of Core Law I, does the College of Law still offer that most excellent series of courses? The exercises have influenced all my legal document drafting.

What I'll think of any of that would actually make the difference in real practice? Here I am in the middle of the Western Pacific and that basic stuff is the beginning and ending of my practice. I came out to Micronesia a year and a half ago to leave the frustrations of the public defender system behind. I came with Rhonda Byers, another College of Law alum. The Kosrae State Legislature offered us both jobs. We both wanted to work, were looking for a change, figured we would have little to do apart from the expected drafting of bills, amendments, resolutions, memos, and letters. We grossly underestimated the potential.

Picture Kosrae State - a single volcanic rain forested island with around 350 inches of rain a year. The world's best limes, fresh Sashimi, warm tropical water; a paradise half way between Hawaii and Australia; an economy based on the munificence of the U.S. Congress, otherwise subsistence fishing and farming. How much can there be for the Legislative Counsel to do? Actually, a lot. The Governor regularly ignores the Legislature and the Constitution, when they get in his way. So when he sent down a bill that gave himself a salary increase, he didn't expect the Legislature to defeat it.

Kosrae has a Constitution, almost congruent with the U.S. Constitution. The Kosrae Constitution limits salary increases for the high elected officials of each branch of government. This is basic law. Our advice to the Legislature was, don't pass the bill; it's unconstitutional.

On behalf of the Governor, the Attorney General sued the Legislature, asking the Court for declaratory relief. He wanted the Court to advise the Legislature that a hypothetical amendment to the Governor's defeated bill would pass constitutional analysis. Our advice to the Legislature, move for dismissal for lack of Subject Matter Jurisdiction. Here we are, in the Western Pacific, revisiting basic Civ Pro.

You might think that the highest ranking law enforcement officer in the State would have a grasp of basic legal principles. You would be wrong. The Attorney General's office has no more respect for the law than the Governor. Living in a tropical paradise sounds a lot better than slogging it out in the polluted air of Atlanta. But, Tropical Islands look better the further away you stay from them. You don't see the trash. You don't see the incompetence. You don't see the women kept as second class citizens. Then too, you don't rattle the system, if you don't have a job to do.

The Governor despises us, because we don't tell the Legislature to roll over when he shoves. Some of our defiance comes from our background in the Georgia public defender system. Some of it comes from confidence we learned in mock trial competitions. We know what the burdens of proof and persuasion are all about.

It's also kind of fun, but disturbing, to get fired by the Governor. He fired Rhonda and I last year in a pair of letters suitable for framing. The Legislature went to Court under the Separation of Powers Doctrine. The Court granted a preliminary injunction. A hearing is scheduled for late February.

I cannot recommend the Pacific Islands as a wonderful land of opportunity, other than in the areas of greed and corruption. The Legislatures are often corrupt, or deferent in performing their duties. To practice law here, to maintain basic constitutional, moral and ethical principles, can be exhausting. On the other hand, anybody who wants to come out here will find plenty to do. The people can use all the principled advocates they can get. State side lawyers will also find plenty of jobs. Nearly every island state or nation sustains a high turnover of U.S. lawyers.

For me, the best part of being here is helping the Legislature to understand that it must be strong in order for the constitutional system to work right. If the best amounts to a dream, still I'm loving the rain, the sashimi and limes, my neighbors, and all the stories I'll have to tell my grandchildren.
Student Voice

America Needs African American Reparations

By Lawrence Oriola

Consider three heresies. Nothing in Africans’ genes or character warranted American enslavement, ideologically and materially the worst in human history, which for many endured until the mid-20th century. Nothing in our behavior warrants incarceration now in percentage greater than any other ethnicity on earth. ‘Civil Rights’ has engendered a re-segregation more alarming than slavery itself.

These heresies violate America’s invincible myth of our generic inferiority. (America defines itself as a nation of immigrants from the whole human race. Plus ‘African Americans’.) The Reparations Movement confronts this dualism, and ignorance about our past and present, seeking the redress we all have heard the saying that the third year bores you to death. As time will simply slip away. That goal is simply spending four months prior to the race, usually six days a week, for most of that time. Having friends push me to keep going during the training was the key. I couldn’t give up without everyone finding out and harassing me – so it became just easier to grin and bear it and keep running. For four long months until finally it was race day. But we all succeeded in finishing – with times ranging between four and five and a half hours.

The real goal we achieved this past semester was simply setting a goal and striving for it. Law school is an intense time – full of stress, exams, reading, externships, finding time for families and friends, job hunts, and so much more. But in reality, it is also a last time of flexible schedules and random chunks of free time sprinkled throughout the day. We chose to fill some of those voids with marathon training. But the key for all of us is to make sure we fill those voids with something meaningful – otherwise that time will simply slip away. We challenge each of you to set a goal for next year (or the rest of this semester) – whether that goal is simply spending more time with family, catching up on missed episodes of Sex and the City, or don’t graduate thinking ‘what if.’ Happy running!

Happy Running

By Lawrence Dietrich

We have all heard the saying that the third year bores you to death. Well, five of us 3Ls decided to have none of that this past semester. What better way to keep from being bored to death than running a marathon. Or so our notion went. We all knew that once school ends this summer, our schedules will change drastically. Work will beckon. No longer will we have time on Friday mornings to fit in a quick 10 mile run. No more afternoon naps. Family and work deadlines will become more pressing than a marathon finish line. So we seized the moment and changed ahead.

The expert among our group, Tara Kinney, completed the Atlanta Marathon on Thanksgiving Day last year. The marathon included a route right past our law school doors. This was Tara’s third marathon and she finished it in under four hours – 6th in her age group. For the rest of us, finishing was the goal. Brian Nichols, Sally Carden, ticians, lawyers, doctors, celebrities, the homeless, students. And vary a non-black ally.

However, reparations (and apologies) are granted to Japanese, Jews and other non-black victims worldwide.

Consider two paradoxes. Extension of justice to blacks is perceived to require great injustice to other Americans. Entry of African Americans into any facet of the culture impels greater oppression of most.

The Movement seeks first a symbolic acknowledgement of the past and present horrors. Therefore, it now concentrates on teaching both other Americans and African Americans that our current travel is a manifestation of the same American philosophy as was slavery. Except in prisons, America has renounced overt slavery but none of its premises. If that were understood the Movement believes that reparations, that is, redress would follow willingly.

If this educational stage was successful, America’s formulation of public policy, including blacks (for the first time genuinely), would design programs of redress. No one knowledgeable in the Movement, I think, proposes arbitrary grants to individuals. That would only reinforce the myth and the alienation.

Social programs dependant on such awakening in American self-perception are easy to imagine yet impossible to imagine occurring – universal equitable health care; reform of criminal law from cop, prosecutor, and wander to Supreme Court by inventing and enforcing humane, constructive, equitable standards for the exercise of discretion; schooling which enables everyone to earn and live at a level America perceives to be minimally fulfilling; etc. Special programs, “Reparations” for black Americans, are needed to redress existing grotesque disparities. They would cost untold millions. But two ironies about cost arise. First, reparations would cost immeasurably less than the astounding price that America pays to maintain its myth and our caste. Prison, for example, costs more per person than college; emergency wards are more than preventive health care; crime more than ‘welfare.’ America would save money by redirecting expenditures away from oppressing us (with crippled excuses) into repairing the devastation currently inflicted. In constructive Reparations for black Americans there’s gold for all Americans.

Second, redress for us cannot be fully achieved without also addressing profound deprivations visited upon many other Americans. If real education, health care, adequate wages and working conditions, and a semblance of justice does not become pandemic, the myth of our unworthiness will undermine all black progress, just as it has corrupted Affirmative Action. Everyone would be better off if Americans were not mesmerized by the untruth that god and Nature compel the subordination of their black companions.

Personally, I doubt that the Reparations Movement can succeed because an indirect consequence would be a decent nation. Patriotism, however, requires me to try it.

Moot Court

Upcoming Competitions
Spon: Feb. 21-22
Civil Rights: Feb. 27-March 1
First Amendment: Feb. 27-28
ABA: T.B.A.
Wagner: March 5-9
Evans: March 28-30
Evidence: April 3-5
Intrastate: T.B.A.

Moot Court Board Members welcome new Candidates with karaoke madness!

Lindsey Churchill, and myself choose the Kiawah Island Marathon in Kiawah Island, South Carolina. This marathon is billed as one of the flattest marathons in the country – exactly what we were looking for. Who needs the hills of Atlanta to further complicate running 26.2 miles?

Unfortunately the marathon happened to fall right in the middle of exams – but it was just a quick jog around an island, right? It would be a nice break from studying.

While Brian Nichols had previously run a marathon, for Sally, Lindsey, and myself it was our first. Our training started four months prior to the race, usually six days a week for most of that time. Having friends push me to keep going during the training was the key. I couldn’t give up without everyone finding out and harassing me – so it became just easier to grin and bear it and keep running. For four long months until finally it was race day. But we all succeeded in finishing – with the