



# THE COMMENTATOR

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## Revue Whisks Students Away to Magical Land of “Lawz”

DAVID GREENBERG '06

It's time for Law Revue! The annual student produced musical opened on March 29<sup>th</sup> and ran until April 1<sup>st</sup>. This year's adventure was entitled “The Wizard of Lawz.” Playing to boisterous (and often inebriated) crowds, NYU law students displayed their acumen in acting, singing, and dancing while poking fun at all things law school related. This year's story followed

in search of a “clue”.

The show also featured a number of sketches and songs, that while contributing nothing to the overall plot, were often hilarious and further ridiculed the various conundrums law students find themselves in.

No doubt the most popular song of the night was the “Jurisdiction Song.” Sung to the tune of the Lion King's “Circle of Life” by

Law School Professors.” The four professor were “the beatnik” Amy Adler (Rachel Pasternak, '06), “the wisest man in the room” Derrick Bell (Ariel Joseph, '06), “old man who tap dances for no apparent reason” Paul Chevigny (actually tapped by Jason Davis), and “sex obsessed disheveled man” David Richards (David Greenberg, '06).

In one challenge, the professors are given a standard law

to learn more about what judges “do in their free time,” and if its similar to “stuff we like to do in our free, private time.” Two students concluded that in their own free time, they sodomize their wives, and merely wondered if judges had the same predilection.

The traditional Faculty Scene featured professors who had been spoofed in the show. Noah Feldman appeared holding a photo of his likeness that the main characters had gazed at, while Paul Chevigny delighted the audience with an impromptu tap-dance performance. Though Dean Revesz was out of town, President John Sexton gladly returned to fill in his old role at the Thursday night performance. In the scene itself, the faculty discussed the rules of the secretive Tenure club. (“Rule Number One: You do not talk about Tenure Club... Rule Number Five: Exams must be graded by children or grandchildren).

Other notable parts of the show included a “walk-off” between Feldmander and Gilletu, an advertisement from the Law Firm “Gunner & Gunner,” and an EIW movie that has already found its way onto the internet.

Eventually, Dorothy reaches Dean Revesz. Though Revesz is not a wizard, (he tells people that so they forget about John Sexton),

Dorothy negotiates a contract that sends her back to her own Contracts class. Once there, she finally vanquishes Gilletu, who melts into a pile of smoking goo. Victory assured, Dorothy and the rest of the cast closed by singing “Wizard 06” (“Freedom 90” by George Michael), declaring that “Wizard, he gave us all we'll ever need.”

*The Law Revue was directed by Joe Alonzo, '06, and was assistant directed by Sarah Burleson '07, Eric Feder '07, and Quang Trinh, LL.M., '06. It was vocally directed by Joe Abraham, '07, Melanie Hirsch, '07, and Emily Hutters, '07. Dances were choreographed by Lisa Glenn, '06, BriAnne Shaw, '07, Carla Small, '07, and Meredith Stead, '06. The script was written by Joe Abraham, Joe Alonzo, Katie Badrick, '06, Gillian Burgess, '06, Sarah Burleson, Ariel Joseph, '06, Will Newman, '07, and Kevin Tam, '07. The producers of the Law Revue 2006 were Joe Abraham, Joe Alonzo, Melanie Hirsch, Emily Hutters, Ariel Joseph, and Meredith Stead.*



Dorothy's (Melanie Hirsch, '07) travails through the land of “Lawz.” While there, she teams up with a group of three colorable friends

In “Lawz,” Dorothy finds herself stranded in a strange land after “thinking too hard” in first year Contracts class. All is not lost; she is soon aided by the ridiculously good looking “Profitch” of the Middle East, Noah Feldmander (Eric Feder, '07), and his band of munchkins (Carla Small, '07, Joe Abraham, '07, Sarah Burleson, '07, and Deby Katz, '07).

Feldmander himself is also stranded in Lawz with no way home, though if he were to return, he'd “probably go to Yale.” Feldmander instructs Dorothy to follow the Sullivan Road and seek out the Wizard of Lawz. To aid her, she is given a pair of “Ruby Stud-ded Gucci Orthotics.”

Unfortunately for Dorothy, she must also defeat the wickedness of the evil Profitch Clayton Gilletu. (Matthew Dewitz, '08). Gilletu and his band of evil but easily distracted monkeys seek to thwart Dorothy and use the Gucci Orthotics for their own nefarious purposes.

Dorothy eventually teams up with three other law students also seeking the wisdom of the great Wizard. This fellowship consisted of Deepa (Madeline Zamoyski, '08), a job-crazed 2L with mediocre grades, 67 interviews, and no call-backs, Arthur (Kyle Hallstrom, '08), a class-skipping, alcoholic, 3L desperately in search of a beer, and Sarah (Gillian Burgess, '06), a liberal LL.M. from a “composite” of countries who is

Emily Hutters, '07, with the Chorus accompanying her, the song consisted mostly of Civil Procedure jurisdiction case names repeated over and over again for dramatic effect, interspersed with the question “Where can I sue?” The song was also accompanied by choreographed modern interpretative dance.

At one point in the plot, Gilletu imprisoned our heroes in a 6 hour professional responsibility class. In a nod to Broadway several tired students (Joe Alonzo, '06, Sarah Burleson, '07, Kristin Connor, '07, Jason Davis, '07), perform the song “One Class, Boring,” spoofing “One Song, Glory” from Rent, providing commentary on a class the administration itself admitted didn't work. Various attempts to procure coffee, iPods, and power for laptops (the law student's “one true friend) are doomed to failure.

Other popular songs included “Class Today” (“Yesterday” by the Beatles) about sleeping in late rather than going to class, “Sell Out” (“Get Out” by Prince), noting the majority of incoming students interested in public service wind up at a firm, “Someday Long After Law School” (“Somewhere over the Rainbow”), about the drudgeries of life at said sold-out firm, and “Uptown Guy” (“Uptown Girl” by Billy Joel), about the joys and perils of dating Columbia Law students. (For one thing, they don't know how to dress).

Another hilarious scene involved four NYU Law professors competing to be Donald Trump's apprentice in “The Apprentice:

school hypothetical: In regards to the painting of Dogs playing poker, can Donald Trump replace the dogs face with his own? Eventually Sandra Day O'Connor (Jo McGinley, LL.M., '06) declares



Adler the winner, under the reasoning, “As a former Supreme Court Justice, I really just love to watch dogs hump each other.”

One of the biggest laughs of the night happened when members from the “Journal of Social Change” faced off against an interloper from the “Journal of Law and Liberty.” Making a reference to the “Scalia incident” from last year, both students were curious

More Law Revue Pictures on Page 6...

### Infra

Editorials	p. 3
Symposia Mania	p. 4
Striking Alum	p. 5
Arts & Deans Cup	p 6-7
Crossword	p. 8







## Do Student Groups Need the SBA?

### Lessons from Texas

IAN SAMUEL '08

After the SBA denied the funding for the Texas Club, the enterprising students heading up the group secured funding for their events from a prominent Texas law firm, Vinson & Elkins. In the space of a few weeks, the group hosted more events than its SBA-backed rival, Southern Exposure, had run all year. In the ensuing Southern Exposure elections, a referendum to remove any reference to Texas from its charter passed overwhelmingly.

The Texas Club isn't the only group that's been operating without bothering to ask permission from the SBA. The Information Law Institute Student Association (ILISA) has been holding regular meetings all semester, with funding provided by the Information Law Institute rather than the SBA. The group's chair has indicated that they will seek SBA funding from the new board, in order to fund things beyond what the ILI can pay.

The proliferation of student groups that either don't bother with the SBA or include them as an afterthought raises an obvious question: do we need an SBA?

SBA elections have recently

been held, ushering in a new board. In the year ahead, these fine people will make many decisions, any one of which could—potentially—be the one that finally justifies to NYU Law the continued existence of the SBA.

In the year past, the SBA's "achievements" have been primarily limited to denying funding for new student groups and holding its own elections. Of course, you might argue they made a difference in students' lives, even if that difference was for the worse. But it's not even clear that's the case.

Even judged by the low standards of student "governance," the SBA achieves remarkably little. For example, the most ambitious candidate statements for the incoming board included promises to return Coke products to campus; a year from now, you can bet you'll still be drinking Gatorade. SBA efforts to do something about the botched 1L lottery process resulted in a whole lot of nothing, and one wonders if the SBA did anything at all regarding the disastrous Civil Procedure exam screw-up from the fall, or other similar events. The primary role of the SBA during the debate over the All-ALSA Space seemed to be

merely holding a forum for people to share opinions already shared elsewhere. Eventually, of course, the SBA played no role at all in the space, with the only meaningful decision maker being Dean Revesz.

I suspect the problem is partly structural. What, really, is the SBA empowered to do, other than 1) publish guidelines for Coase's List and 2) allocate money for student groups? And if no one pays attention to the guidelines, and students are realizing they don't need the SBA's go-ahead to start new groups, then I ask again: does NYU need a Student Bar Association?

We'll see in a year. In that time, the Texas Club will probably re-apply for some additional funding, as will some other new groups, and next year will bring its own crop of controversies. The board we just elected is probably the best we're ever likely to get; it's filled with people who are genuinely capable of doing their jobs well. In a year's time, perhaps these bright people will be able to transcend the built-in uselessness of the SBA and make real changes happen.

But I doubt it.

## Commie EIC Hits Walk-Off Homer

### Law School is to Baseball as...

CHRIS MOON '06

I began writing for *The Commentator* because I was an English major in college who was sick of not ever being able to write anything in law school. Sure, you have an A paper, or a B paper, but footnoted 30 page articles about obscure legal doctrines aren't really "fun" to write about. I figured I could write a sports article every couple weeks, and that would be fun. Somehow, I ended up taking more and more responsibility, eventually ending up as Editor in Chief of *The Commentator*.

One of the major reasons for deciding to take an active role on *The Commentator* is that I highly value the concept of "the marketplace of ideas." You take your good ideas, and I'll take my good ideas, and eventually the best ideas will win out. That sounds like a good theory to me, and it sounded like a pretty good theory in Professor Stone's First Amendment Class. I figured, given the little attention paid to the "other side" of the debate here at NYU Law that I could make a difference just by having writers cover events by putting forth both sides of the story. In large part, I'm pleased with the results.

But I began my Commie career as a sports journalist, and I'm ending it (sort of) as a sports journalist by describing the excitement I felt at watching the Final Four run of George Mason.

It was a pleasure to watch the NCAA Tournament this year, not because of my busted bracket, but because of the run by George Mason. A couple of weeks ago there was an article in the online

magazine Slate that drew comparisons between the Economics department and the basketball team at GMU.

According to the article, one of the main reasons for the success of the basketball team has been their ability to acquire those players who are undervalued by the marketplace and then recruiting them. This strategy might sound familiar to any baseball fans, as the strategy of the Oakland A's, explained in the book *Moneyball*, has also been to acquire undervalued players. The best example of this in baseball is acquiring people with a high on-base percentage, as that statistic has been historically undervalued when compared to the sexier batting average.

In basketball, it is easy to figure out that if a guy has all the athleticism in the world but can't shoot he isn't going to be able to help his team on offense. On the other hand, a slow short guy who can shoot lights out isn't much help if he can't defend at least adequately. Look at the careers of Darius Miles or Trajan Langdon for examples of each of these.

Big fat guys can use their wide body to keep their opponents out of paint on defense and can back people down on offense. Given their physique, it isn't hard to see why coaches overlook these guys, but two of the Final Four teams, including George Mason, were led by big fat guys. These guys usually aren't recruited by Connecticut, but the big guy on GMU sure ended up outplaying both of UConn's NBA prospects (Josh Boone and Hilton

Armstrong).

What does all of this have to do with an economic department? In a similar way, this is what George Mason has done over the last few years in economics, with two faculty members winning Nobel Prizes in Economics, quite a feat for a "mid-major" in the world of Academia. One of the problems with this strategy is that now it is much more difficult to find the hidden gems, because the top Economics departments no longer undervalue formerly overlooked academics.

What does this have to do with law school? A national magazine recently explained that GMU law school has done much the same thing with their law school that they did in Economics, finding overlooked faculty members by refusing to hire people just because their particular field, such as feminist theory, was "hot." George Mason is rising in the USNews rankings because, in competing with similarly situated schools, they ignored liberal bias and hired conservatives and libertarians, bringing intellectual diversity to the plate.

And what does that have to do with NYU Law? Well, the Oakland A's may make the playoffs on a limited payroll, but the Red Sox, who had the resources to play *Moneyball* at a higher level, ended up winning the World Series. Sure, it really is awesome that we're number 4A, but paying more than lip service to intellectual diversity might be a good way to make us number 3. Dare to dream, in more ways than one.

## Farewell Law School

NICHOLAS KANT '06

In the beginning of the James Bond movie "GoldenEye," James Bond (Agent 007) and Alec Trevelyan (Agent 006) are in a Soviet weapons facility, on a mission to destroy it. When they get to the main weapons room, and it is empty, Bond says, "It's too easy."

Trevelyan replies, "Half of everything is luck, James."

"And the other half?" Bond asks.

The alarm then goes off. "Fate," Trevelyan replies.

Of course, it turns out that Trevelyan is about to betray Bond.

There is also the well-known cliché that goes, "Life is 10% what happens, and 90% how you respond to it."

Personally, I believe in fate to a large degree, but I also believe that we can influence our fate, and often make our own luck. It might be fate to meet that girl, but you won't meet her sitting at home.

If you're a 3L like me, law school is coming to an end. Maybe it is fate that we are in law school, and maybe fate and destiny will dictate what comes next.

Either way, it's been a long haul. We've been in it for the long haul. If being a high school senior is 12th grade, then college is 13th-16th, and law school is 17th-19th. So, put that way, we're about to finish 19th grade, and that doesn't even count Kindergarten!

That's a long time, and frankly, I'll miss school. I've never taken more than the summer off, and for me school has been my whole life. I've never known life without either being in school or being on a short break and having school on the near horizon.

I like school. I like learning, and proving I've learned the material, and meeting students and teachers. And now it is all over. Maybe I'll go back in a few years and get a Ph.D. or something, but that won't happen for a while, if it ever does happen.

It makes me sad to think of "my education" as grade school and field day, getting picked up by my parents in middle school, going to lunch with my friends in

high school, through to the high professional standard of law school, and it is almost over. It's all like one 20-year period or era of my life, and it is almost over. And like another well-known cliché, "You can never go home."

But that doesn't mean we should be sad. We're this country's best and brightest, we're the future. It's another common cliché to say, "we have the world in the palm of our hands," but it has never been truer. We have power, in more ways than one.

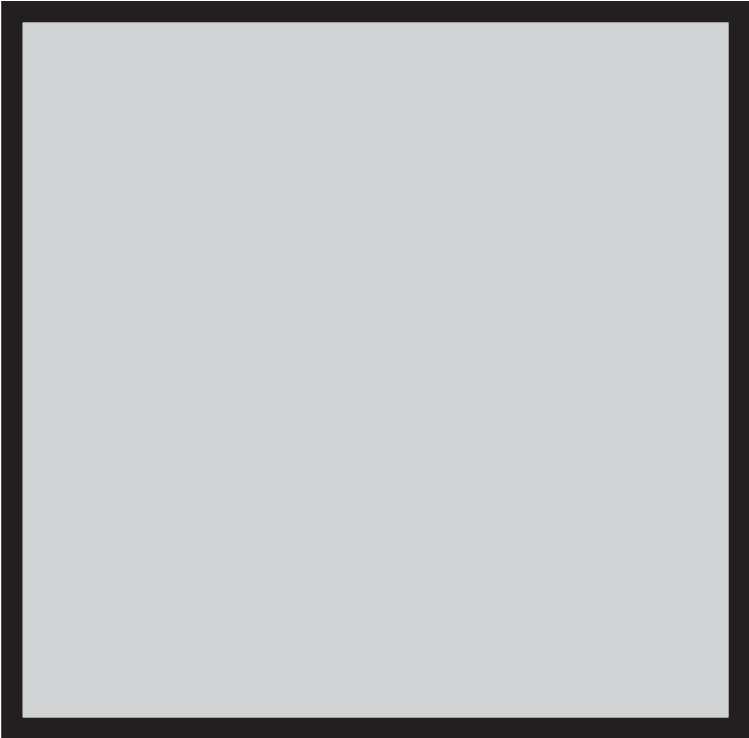
There's a song by Paul Simon called "She Moves On." "I feel good/It's a fine day/The way the sun hits off the runway/A cloud shifts/The plane lifts/She moves on." That is graduation day for us. We can't go home, things change, but we move on. Life will bring us new experiences, new adventures.

Another song from the same Simon album is "Born at the Right Time." Lyrics from that song go a little something like this: "Down among the reeds and rushes/A baby boy was found/His eyes as clear as centuries/His silky hair was brown/Never been lonely/Never been lied to/Never had to scuffle in fear/Nothing denied to/Born at the instant/The church bells chime/And the whole world whispering/Born at the right time."

I think we were born at the right time. The right time for me, the right time for you, the right time for us. In the coming years, in the coming decades, a lot will be changing in this world and in this country. A lot is at stake. Just look at the headlines in any newspaper on any day. Iran is (probably) trying to make nuclear weapons. The rich are getting richer, the poor are getting poorer. The environment is getting wrecked. Jails are filling up. The population is always increasing. Diseases are spreading. I could go on and on.

So, if you're a 1L or a 2L, enjoy the last year or two of your education before it is over. And if you are graduating, like me, remember that we have power, but to quote Chuck D from Public Enemy, we can also "fight the power." We can look where we came from, but we can't go back. The future is coming, and history has yet to be written. I hope you'll do what's right.

Take care and good luck.





## Animal Access to Courts Debated

NICHOLAS KANT '06

Lawyers looking to help animals through the law have achieved many advances, but there is still much work to be done, and many barriers to overcome. That was the main message last week when NYU Law hosted a symposium on animal law on April 14, 2006. "Confronting Barriers to the Court Room for Animal Advocates" took place all day in Lipton Hall within D'Agostino Hall.

Credit goes to Delcianna Winders '06 and the rest of the NYU Student Animal Legal Defense Fund (SALDF) for organizing the event.

The first panel was about "Linking Cultural and Legal Transitions." There were three panelists and two moderators. "The law changes and progresses by exhibiting inconsistencies," said panelist Dale Jamieson, Professor of Environmental Studies and Philosophy at NYU. Thus, Jamieson argued, "If it is *prima facie* wrong to cause humans suffering, it is also *prima facie* wrong to cause non-human animals suffering."

Taimie Bryant, a panelist from UCLA Law School, took issue with that argument. "I would argue that focusing on animals' ability to suffer like us is wrong," she said. Bryant argued that such an argument is wrong because you are defining animals by reference to a quality that is despised. "If I suffer from a migraine, I cannot participate as well. It is a weak-

ness. A pitiable and undesirable quality," she said.

Bryant said cognition is something better to focus on, because cognition is something that is valued. "But it is hard to say man should be the measure of all goodness, if cognition is the main factor," she said. "We can't fly or breathe underwater." It is a tough issue, either way, Bryant said. "I just don't think it works. Humans have been defined as unlike animals, so when we find similarities, humans are redefined," she said.

After lunch, there was a panel on "Legal Standing for Animals and Advocates." There were three panelists and a moderator. Standing has always been a huge barrier to animal rights advocates. "Some states see us coming and they want to raise the standing bar as high as they can," said panelist Jonathan Lovvorn, Vice President of Animal Protection Litigation for the Humane Society of the United States.

David N. Cassuto, Professor of Law at Pace Law School, commented on the standing requirement of imminence. He talked about how the United States Supreme Court held in *Lujan* that a litigant can't just say he/she is planning to go somewhere, he/she needs to already have the plane ticket. Cassuto made an analogy to criminal law. If an abusive husband tells his wife he will kill her when he wakes up, is that imminent enough for her to defend her-

self, or does she need to wait for him to wake up and come at her with a loaded weapon? "If we're trying to protect animals, why do we need to have these silly requirements about imminence?" he asked.

As far as why we ever had standing requirements in the first place, moderator Joyce Tischler, Founding Director of the Animal Legal Defense Fund, made a comment. "It's a way of ensuring people that people will follow through," she said.

But the fact that animals are considered property, without many if any legal rights of their own, is a huge problem for animals advocates, said panelist Katherine Meyer, who is a partner with the public interest law firm Meyer Glitzenstein & Crystal. "We've got to make it politically incorrect to do these things, to treat animals like property," she said. "But you've got to do it incrementally."

The final panel was "Animal Advocacy and Causes of Action." There were five panelists and a moderator. "We would like to see statutes that protect all animals and have a citizen's suit provision," said panelist Mariann Sullivan, Deputy Chief Appellate Court Attorney, New York State Appellate Division.

If there is no citizen's suit provision, you have to use the Administrative Procedure Act, said panelist Eric Glitzenstein, Partner, Meyer Glitzenstein & Crystal.

But you can rarely if ever sue for enforcement or lack of because of prosecutorial discretion, he said.

However, there are still many ways of working on behalf of animals. "If we want to effectuate change on behalf of animals, it's important that we work on all levels," including federal court, state court, administrative actions, etc., said panelist Sonia Waisman, Partner, Morrison & Foerster, LLP; adjunct professor, Loyola Law School (Los Angeles).

Finally, concluding remarks were made by David Wolfson, a partner at Milbank who currently teaches a seminar on animal law at NYU Law.

"I think it's clear that there are a significant amount of obstacles to changing the way animals are treated today," he said. "We've clearly done unbelievably well, but at the same time we've got so much to do."

"We need to get the message out and we need to educate people – the most obvious reason is for cultural change. Another issue that we have to address at the end of the day is we're just trying to change the world. Things take time, you have to do the hard work, and it may not be particularly glamorous. It seems to me things are going to get better in significant ways. I think it's clear that we do a huge amount of harm to tons of animals without any real justification. And I think at the end of the day, the truth will win out."

## JILP: Nukes in the 21<sup>st</sup> Century

RAJ GREWAL '07

This year's 10<sup>th</sup> Annual International Law Symposium, organized by the Journal of International Law and Politics, focused on nuclear weapons proliferation. The symposium topic was particularly timely given the ongoing Iranian and North Korean nuclear crises and the new nuclear pact between the United States and India. The all-day symposium was organized into three panels and featured some of the most prominent experts in the regulation of nuclear weapons from around the world.

The first panel concentrated on the strengths and shortcomings of the current nonproliferation regime. Dr. John Burroughs, Executive Director of the Lawyers' Committee on Nuclear Policy began by questioning the extent to which the Iranian nuclear weapons program actually poses a threat to the Nuclear Non-Proliferation Treaty (NPT), currently the foundation of the nonproliferation regime. Dr. Burroughs argued that NPT compliance has thus far been quite good, and that the biggest rule-breakers are the largest nations, such as the United States and Russia.

Ambassador Sergio de Queiroz Duarte, Brazilian Ambassador to the U.N., expressed the opinion that much of the current trouble facing the NPT is brought on by the vague definitions of key terms within the Treaty. The Ambassador explained that there is little agreement over what constitutes a misuse of a country's "inalienable right" to pursue nuclear energy.

Dr. Christopher A. Ford be-

lieves the main challenge we face when it comes to nonproliferation is the tension between wanting a universal approach that applies to all nations equally, which may be impractical, and wanting a more permissive approach, which treats some nations differently.

Jonathan Granoff, President of the Global Security Initiative, used his time to emphasize the idea that nuclear weapons proliferation is uniquely problematic, in that the destructive power of nuclear weapons is unmatched by any other weapon of war.

The second panel addressed the topic of emerging methods of counter-proliferation. Nobuyasu Abe, Japanese Ambassador to the U.N., outlined three different approaches to non-proliferation: the multi-lateralist approach, the plural-lateralist approach, and the unilateralist approach. The multi-lateralist approach is best represented by the NPT. Ambassador Abe explained that the existence of outliers to the Treaty, including Israel, India, and Pakistan, makes the Treaty's success incomplete. The Nuclear Suppliers Group and the Bush Administration's Proliferation Security Initiative are examples of the plural-lateralist approach.

Although these agreements work well in constraining the behavior of the signatories, Ambassador Abe believes that such plural-lateralist settlements lack the proper scope to be entirely effective. Military action against nations trying to acquire nuclear weapons is the most extreme example of the unilateralist approach. Ambassador Abe pointed

out that after 9/11, it is now widely believed that waiting to react to an attack would simply be too late, making preventative action justifiable under certain circumstances. Because military action can be very destabilizing, however, Ambassador Abe stressed the need to make the multi-lateralist and plural-lateralist approaches succeed in order to head off the negative consequences of unilateralism.

Carolyn Leddy defended the Bush Administration's stance towards nonproliferation. Ms. Leddy stated that the United States is more than willing to accept multilateral approaches, so long as they are effective. She echoed President Bush's call for a treaty regime that takes into account constantly changing security concerns. Nonproliferation treaties must become "living documents," Ms. Leddy argued, or else face becoming nothing more than pages in our history textbooks.

Stephen Kaplow reiterated the statements of other panelists when he told the audience that we must move beyond the fiction that there are only five nuclear weapons states. Mr. Kaplow went on to advocate a "Fort Knox standard" for securing "loose" fissile material that might make its way onto the black market.

Canadian Senator Douglas Roche expressed dismay at the unwillingness of the ICJ to condemn the use of nuclear weapons. Senator Roche then espoused the benefits of the Middle Powers Initiative (MPI), which he has helped to create. Senator Roche hoped that the MPI would strengthen the resolve of nations to publicly disclaim any use of nuclear weapons.

The final panel asked three experts to consider the practical application of nonproliferation. Ambassador Robert T. Grey, Jr. displayed his frustration over what he termed the ideological underpinnings of the Bush Administration's nonproliferation stance, which he believes are working against the goal of nonproliferation. To that end, Ambassador Grey criticized the new U.S.-India nuclear pact signed by President Bush and Indian Prime Minister Manmohan Singh. The new pact does allow India to continue producing fissile bomb-making material and may lead to an Indian nuclear weapons production capacity of fifty warheads per year.

David Jonas defended the Bush Administration's new nuclear pact with India on the basis that India has been much more cooperative in the area of nonproliferation than its neighbor Pakistan or Iran and North Korea. India, Mr. Jonas explained, has an excellent record of keeping its nuclear material out of the hands of non-state actors and rogue nations. Furthermore, Mr. Jonas defended the pact for rewarding a friendly, democratic nation that will face soaring energy demands in the future, which India undoubtedly will. Mr. Jonas also described his work for the Department of Energy, downgrading former Soviet nuclear weapons stockpiles and securing "loose" nuclear material worldwide. The symposium was made possible through the support of Herbert Rubin and Judge Rose Luttan Rubin.

## The "New Power Generation"

AMANDA GARCIA '06

The NYU Environmental Law Journal hosted its annual colloquium on April 6, 2006, convening scholars and practitioners from across the country to discuss "The New Power Generation: Environmental Law and Electricity Innovation."

Panelists addressed the role that environmental law currently plays in electricity policy, as well as whether and how that role might change to foster innovation as pressures on the sector mount due to national security, rising oil and natural gas prices, climate change and traditional pollution control concerns. The colloquium included three panels: one on domestic regulatory policy, another on the influence of domestic politics and lastly, developments in international electricity policy.

Speakers on the domestic regulatory policy panel included Professor Fred Bosselman, Federal Energy Regulatory Commissioner Suedeen Kelly, Professor Jonathan Nash and Van Ness Feldman attorney Robert Nordhaus. The discussion ranged from whether nuclear energy should be a larger element of national energy policy to whether current climate change policy bills in Congress would foster development of renewables, such as wind and solar generation. Commissioner Kelly emphasized that the siting of transmission lines is a limitation on development of renewable energy resources.

The panel on the influence of domestic politics explored several case studies, including Cape Wind in Nantucket Sound, the Regional Greenhouse Gas Initiative,

the New York State Renewable Portfolio Standard and the development of electricity resources on public lands in the Western U.S.

Natural Resources Defense Council attorney Dale Bryk, Professor Gary Bryner, Conservation Law Foundation attorney Seth Kaplan and Pace Energy Project Executive Director Fred Zalzman described the political influences that shaped these projects. The panel was especially timely: as the panelists spoke, Congress was debating an amendment to a Coast Guard appropriations bill that would give the Massachusetts governor a veto over the Cape Wind project. A few days after the conference, the amendment passed, threatening to quash one of the country's first proposed offshore wind developments.

EcoSecurities, Inc. Chief Executive Officer Bruce Usher, Consulting Engineer Roger Raufer and Professor Steven Ferrey provided the perspectives of an entrepreneur, an engineer and a law professor on developments in international electricity policy. Both Professor Ferrey and Dr. Raufer emphasized the importance, from a climate change perspective, of finding alternatives for China and other Asian countries. Dr. Raufer linked the growing urbanization in China to the possibility for sustainable, local energy systems. Mr. Usher emphasized the limitations of the Kyoto Protocol Clean Development Mechanism as a tool for electricity innovation.

Symposium funding from the Law School Office of Student Affairs funded the ELJ colloquium.



## An Open Letter to the Law School: Why I’m on Strike

*Eds. Note: This semester, the graduate worker strike at NYU has had a dramatic impact on activities at NYU Law. PILC speaker events were cancelled because speakers refused to cross the picket line. The Public Interest Job Fair also had several employers move their interviewing sessions off-campus, infuriating students because it was done at the last minute. Finally, the annual Korematsu lecture was moved off-campus because of the desire of Congressman Mike Honda to not cross the picket lines. Considering few at the Law School qualifies for union membership, it might be informative to hear the opinion of an NYU Law graduate as to why she is on strike.*

**LIZ LOEB ’04**

I am a 2004 graduate of NYU School of Law. While there, I had the privilege of acting as co-chair of OUTLAW, as an organizer of SQUAD, as a member of COLR, and as a senior editor of The Review of Social Change.

I am writing to you now not only as a friend and alum, but as a graduate worker on strike in the NYU law and society Ph.D. program, and as an active member of GSOC / UAW Local 2110.

I have been on strike, along with hundreds of other NYU graduate worker since November 9<sup>th</sup>, 2005. We are on strike for one simple demand: that NYU come to the bargaining table to negotiate a second graduate workers contract with GSOC / UAW Local 2110. We are striking for the basic right to collective bargaining and union representation. We are striking for the basic right to organize for fair working conditions. These rights are enshrined as foundational tenants of international human rights law, and we will all benefit from an institution that respects those rights. Moreover, our strike has received national attention as an essential moment in the struggle to preserve labor rights more generally in the U.S. In 2000, graduate workers at NYU voted democratically to join Local 2110 of the UAW, a local unto that represents academics at the New School and Columbia, as well as social justice lawyers throughout the city. After a 2000 decision by the NLRB mandated that NYU recognize and negotiate with GSOC/UAW, we won a four year contract that drastically improved intellectual life for all

members of the NYU community, and that made an NYU graduate education financially possible for non-wealthy students, including myself.

In 2004, the NYU administration has unilaterally refused to negotiate a second contract with GSOC despite the overwhelming and democratic desire of graduate workers, and undergrads, and faculty for a second union contract. The administration was empowered to take this action by the Bush-appointed NLRB policy board, which in 2004 gave NYU an option with regard to union recognition – NYU was permitted to continue with a second contract, but they were no longer mandated to do so. On the day our first contract expired, Aug. 31, 2005, the NYU administration slashed our health care benefits by 50%. We have been working without employment rights, without a contract and without access to third party arbitration for grievances, ever since.

In January NYU began firing striking graduate workers, including myself. We have lost not only our jobs for this semester, but our stipends and future teaching appointments as well. Striking workers expect to lose pay while striking, but this wholesale blacklisting violates all standards of appropriate employer action in the context of a labor dispute.

As graduate workers, we not only teach classes, perform faculty research, prepare lectures, and perform endless errands, we also hold the majority of office hours and grade the majority of papers for undergraduates at NYU and work second jobs to make ends meet. We work for NYU anywhere from 25-50 hours per week, often in areas that have nothing to do with our own studies and research, and we make it possible for NYU to charge and collect undergraduate tuition. Without our work, NYU could not function. I love the work of teaching, and am deeply committed to my role in the university. My demand for union representation, and for basic respect and dignity in my work, comes from that commitment.

*Sincerely,  
Liz Loeb, Esq.*

### FREQUENTLY ASKED QUESTIONS

How many NYU graduate workers went on strike in the fall?

85% of graduate workers who voted in the strike authorization voted to go on strike. As such, hundreds of graduate students reported being on strike during the fall, and these numbers represented a strong majority of active graduate workers. GSOC is currently circulating a petition among all graduate workers to show that a strong majority still demand a second union contract.

How many graduate workers are still on strike?

Because the union does not receive an official headcount, perfectly accurate numbers are impossible to obtain. Of course, many workers returned to their jobs in the spring, but almost all workers who did return reported that they were forced to do so under coercion, whether because of intimidation by an advisor who directs their career, the real threats of deportation placed on international students, or the crushing economic penalties levied by the NYU administration against strikers. As of now, a significant and critical mass of workers remain on strike.

What about all the proposals offering non-union forms of internal representation to graduate workers?

After much analysis, GSOC strikers formed a rough consensus that these proposals did not protect our interests as graduate workers. For example, workers were denied access to outside arbitration for employment disputes, leaving us with no mechanism for enforcing our employment agreements. Also, the proposal would not offer workers a binding contract regarding pay, benefits, etc. Moreover, stipend amounts would vary by department, thus replicating the pre-contract situation in 2000 and before in which the least funded departments were ones that housed the highest number of women and minorities. Finally, the proposals did not rescind the punishments already levied against striking workers – punishments that would clearly be illegal under the National Labor Relations Act.

What are the demands of the strike?

We have one simple demand – that the NYU administration bargain a second contract in good faith with GSOC as a union.

What does the picket line mean?

We are asking members of the NYU community to support our picket line by joining it when they can. Because of the nature of academic life and community, we are not asking students to boycott their classes or NYU buildings, and we do not consider class attendance a picket line crossing. We are, however asking classes to move off-campus, if possible, in support of out picket line and of our strike. We offer this not as a demand but as a way that our allies can meaningfully support the strike. As such, a handful of law school classes have voluntarily moved off-campus.

Why are events moving off-campus?

GSOC and our union, the UAW, has called for a boycott of the NYU campus by outside speakers and visitors in solidarity with our strike. We have made this call universally, and have given notice of the boycott to every invited speaker, in all schools, programs, and departments. We have called for this boycott because it mounts enormous pressure on the administration, and more pointedly, because many speakers are in solidarity with unionized labor and will not in good conscience speak at NYU during the strike. GSOC and the UAW have offered full staff-support in finding alternate locations for events, and in contacting event participants. We have also paid the costs of renting alternate space, and have not placed a set cap on the funding allocated to these relocations.

Are law students who T.A. for NYU outside the law school covered by the union contract?

Yes, law students who performed contract-defined T.A. work in other schools or departments were included in the bargaining unit of our first union contract, and thus were protected by the benefits and provisions of that contract. In refusing to negotiate a second contract, the NYU administration has argued that our union interfered in academic issues when we made the case that those hired as T.A.s should be compensated as T.A.s rather than with the lower wages and benefits offered by the administration. The NYU administration has consistently attempted to exclude law students and other similarly situated workers from the bargaining unit so as to avoid the higher wage and benefit requirements of bargaining unit jobs.



## Franz Ferdinand Rocks Hammerstein For Lucky Few At Free Show

BRIGHAM BARNES '06

It had all the trappings of a total rock and roll disaster: late last Wednesday it was announced across the blogosphere that Franz Ferdinand would be playing a free matinee performance between their two-nights of sold out co-headlining shows with Death Cab for Cutie at the Hammerstein Ballroom. Tickets would be available starting Thursday morning at the East Village Tower Records location.

To get a ticket, all one had to do was add the Franz Ferdinand Secret Show to the Top 8 Friends on their MySpace profile, print up their profile, and bring it into Tower Records, and then show up by three on Friday for the show. One couldn't help but expect long lines at Tower Records to get a ticket, the prompt "selling-out" of said tickets, a horrible wait in a long line outside the Hammerstein Ballroom, a packed show full of over-enthusiastic freeloaders, and perhaps an abbreviated and half-hearted performance by the band.

Turns out that the potential rock n roll disaster went off without a hitch and was more of a rock



n roll revelation. When I stopped by the Tower Records late Thursday afternoon with my hastily-created MySpace profile there was

filled half the main floor with ample personal space for all, even right up against the barricade between the audience, the photo pit, and

the stage. Less than thirty minutes after the doors to the venue opened the theater's lights were lowered and the band quickly took the stage and began to play "Michael", an underappreciated track from their first record.

There was an especially casual and amiable air to the band during their performance. They were dressed down compared to their usual Glaswegian rockstar attire and the band's frontman, Alex Kapranos, was friendly and conversational with the audience whereas he typically exudes a mildly sinister, "you will do as I say for I am your tight-pantsed rockstar leader" demeanor at live shows. The venue's security guards were also rather laid back and, while cameras are often confiscated at the door at Hammerstein shows, the audience was allowed to take as many pictures that their photo-blogging hearts desired.

Despite the casual atmosphere of the show, there was nothing half-hearted about the band's performance. Much to the delight of the hardcore fans in the

audience, they dug out some of their less-often performed songs (such as "Von Tango", "I'm Your Villain", and "Tell Her Tonight"), took requests from the audience, and didn't neglect songs that made them famous like "Darts of Pleasure" or "Do You Want To?", either. High points from their set included a "blistering and gorgeous" (Alex's own words) rendition of "Evil and a Heathen", the band inviting several dozen audience members onstage to sing the final refrain of "Ich heiÙe Super Fantastisch" on "Darts of Pleasure", and two additional drummers pounding on Paul Thomas' drum kit like a group of mad wizards around a caldron for the set-closing "Outsiders."

The band came down onto the main floor after "Outsiders," socializing with audience members who didn't immediately leave after realizing that house lights mean "no encore". All in all, what could have been a terrible rock n roll mistake turned out to be a fun way of watching a great band in a more laid-back atmosphere on a Friday afternoon.

## More Law Revue Pictures: It is Like Watching The Show All Over Again



*The Walkoff!*



*The Despondent 3L*



*The Whole Cast*



*Dean Resvesz saves the day and sings a song*



*The Feldmander showing off his legs.*



## Three Years of Dean's Cup Dominance De-railed: Lions 67, Violets 48

CONOR FRENCH '06

*The Dean's Cup is an annual charity basketball event played between New York University School of Law and Columbia Law School. The money raised through ticket and souvenir sales and donations is distributed to various charities by the public interest center at each school.*

Even before the representative teams from NYU and CLS stormed onto the court in front of writhing and frenzied masses at the Levin Gymnasium, the 2006 Dean's Cup already possessed all the trappings of a classic. There were colossal hardwood stakes: ownership of the coveted trophy recognizing one school's basketball superiority. There was exemplary altruism: public interest centers at the competing universities netted over \$100,000 (*Eds. Note: see accompanying article in this issue on the fund-raising*). There was an irrepressible subplot: two prestigious legal institutions knotted at #4 in the latest "U.S. News & World Report" law school rankings. There was even an overly catchy N.Y. Times tagline: "Aspiring Lawyers Meet on Court, Not in Court."

And, although the main event itself failed to replicate the nail-biting buzzer beaters of previous years, this fifth annual Dean's Cup did feature a back-and-forth first half, a faculty game decided by a single point, and, perhaps most importantly, a renewal of the electrifying school fandom and interaction that truly fuels this distinguished rivalry.

Fresh off cocktails in Columbia's lower library, throngs of violet-clad students streamed into the Dodge Fitness Center intent upon out-singing, out-cheering, out-whistling, and generally out-shining their powder blue-adorned counterparts. Whereas CLS fans initiated traditional academic war cries such as "Over-rated" and "Safety School," zealous NYU supporters responded by coining more offbeat disparagement like "Third Tier Ivy" and, still more venomous, "Unattractive."

The opening stanza saw NYU flash out to an early lead. Arcing shots from Justin Houghton ('06) and slashing penetrations from Emeka Onyejekwe ('06) spurred on NYU's quick-paced assault. All the while, the purple hoards stamped their feet and pumped their fists in cascades of noisy approval. At the midway point of the first half, NYU held a slim 14-11 lead. Just moments later, however, a fading jump shot followed by a falling lay-in from Columbia's leading scorer, Eric Geffner ('07), propelled CLS out front.

Unfortunately for Violet faithful, CLS would never relinquish this lead. Through some gritty interior rebounding and inspired outlet passes into transition, NYU managed to trim the deficit back to two-points at the five

minute mark of the first half. Still, NYU could never overcome its numerous turnovers even as CLS finally settled into a rhythm and found greater offensive consistency. At the intermission, CLS lead 29-24.

The faculty halftime spec-



*Oren Bar-Gill heads for a lay-up*

tacular provided a break in the action but not in the intensity. Rather up-tempo for a faculty game, both sides struggled initially to achieve fluidity and breach the other's collapsing defense. Even the addition of former CLS faculty team captain Samuel Issacharoff could not prevent NYU from going scoreless throughout the first seven minutes of play. Trailing 3-2 with 17.4 ticks

remaining on the clock, a hard foul sent NYU team captain Noah Feldman to the charity stripe. Perhaps ominously for the entire NYU 2006 Dean's Cup effort, Feldman missed both free throw attempts, thus consigning NYU's faculty squad to a stinging 3-2 defeat.

The arrival of the players back onto the court to commence the second half temporarily recharged the flagging and now bleary-eyed NYU faithful. Historians among them recalled, in whispers, how the 2004 Dean's Cup Davids had prevailed in the face of an eleven-point halftime deficit against that year's powder blue Goliaths or how the superior athleticism and endurance of NYU during the 2005 Dean's Cup had proved instrumental in overturning the nine-point halftime edge CLS enjoyed in the course of that year's contest.

History, however, resisted repetition. Shauna Burgess ('06) and Cynthia Maxwell ('06) traded baskets shortly after the restart, but CLS continued to edge further ahead. Even as Onyejekwe enlivened NYU believers with a low-flying trey, CLS, urged on by its pa-



*Feldman gets Competitive on the basketball court*

tient and tenacious floor marshal Jordan Connors ('08) staked itself to double-digit lead. Still hampered by a turnover-riddled offense and with its full court press unable to stem the tide of CLS's methodical onslaught, NYU fell behind by twenty with just under eight minutes to go. Those final eight minutes did little to alter that margin as CLS closed out its 67-48 victory.

When wrapping up such charitable festivities as the Dean's Cup, the first instinct is too encase them in either their inherent nobility of purpose or the sentimentality that comes with discarding graduate school formalities and re-indulging in school spirit. Certainly, the Dean's Cup does its part in filling up public interest coffers and has the capacity to send a

ripple effect of swelling pride across a law school campus.

Yet, resisting that temptation, the signature thrill and spirit of this year's Dean's Cup, the unique vitality that it brought, was most readily found not on the parquet at all nor even in the program's altruistic bent, but rather in the sometimes hostile, sometimes jovial give-and-take between the fans and in the lamp-lit corners of the West End (now sadly closed) where elbow to elbow, arm to arm, and face to face, bright young minds and future colleagues from the Big Apple's two finest legal institutions congregated.

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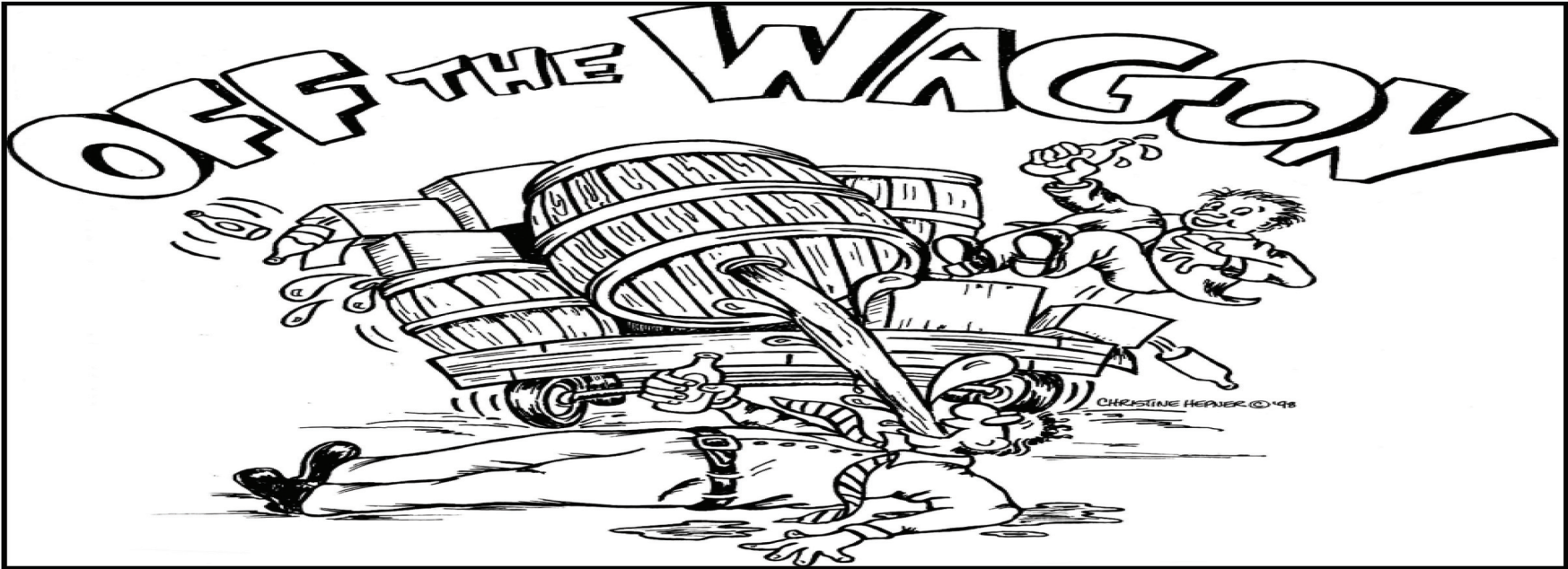
# Commentator Crossword

April 19, 2006

by Jessica Gonzales '06

1	2	3	4		5	6	7	8		9	10	11
12					13					14		
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54				55					56			

- Across**  
1. religious figure in Islam  
5. Hamlet was one  
9. large Australian bird  
12. restaurant offerings  
13. the golden calf, e.g.  
14. Norma \_\_\_\_  
15. Teller's pal  
16. identifying features  
18. see 44 down  
20. exploit  
21. email address bisector  
22. Tolkien species  
24. just a trace (like evidence)  
29. apprehend  
32. liver dish  
33. article in Oaxaca  
34. sports award  
35. Popups or Banner  
36. take turns  
38. donkey  
39. class distraction (abbv.)  
40. wolf descendant  
42. ambassador's home  
47. bloody and disgusting  
50. International \_\_\_\_  
51. catch  
52. sacred Egyptian bird  
53. Crazy singer  
54. Lincoln Ctr. loc.  
55. lice eggs  
56. English title
- Down**  
1. mischievous little devils  
2. come face-to-face  
3. Eleanor Roosevelt's real first name  
4. boring and ordinary  
5. god, in Nice  
6. West or Ant  
7. neither  
8. shade tree  
9. chooses poorly  
10. create  
11. Met & Guggenheim loc.  
17. \_\_\_\_ Wiedersehen  
19. (technical) college alternative  
22. otherwise  
23. City of Angels  
24. facial location  
25. architecture software  
26. NYU tech support  
27. (social) problems  
28. auction article  
29. security agency  
30. appropriate  
31. toodles  
34. all together  
36. chemical symbol for Napoleon's (maybe) killer  
37. Adam's sacrifice for Eve  
38. Iron or Bronze  
40. doodled  
41. reveals (like a secret)  
42. give off  
43. slob's creation  
44. where NYU grad was almost held (with 18 across)  
45. fly like an eagle  
46. call out  
47. aka a wildebeest  
48. sloth or gluttony  
49. Japanese sash



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