



THE COMMENTATOR

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Students Honored by NGLTF for Scalia Protests

BY CHRIS MOON '06

In the end, the debate over Eric Berndt's question and the subsequent protests may come down to one's opinion of the Supreme Court justice.

Generally, those who admire Justice Antonin Scalia and those who disagree with him but feel the office of Justice merits a certain respect view Berndt asking Scalia whether he sodomizes his wife as rude and offensive and see the protesters as out of line for a profane demonstration. On the other hand, those who feel that Scalia is mongering hate and is not worthy of the respect the position may normally engender view Berndt's question as a courageous protest against a hateful man.

The latter perspective is that of Matt Foreman ('82), executive director of the National Gay and Lesbian Task Force ("NGLTF"), as he made clear during a visit to the law school on Thursday, November 17, 2005 in Golding West.

Foreman came to honor, in front of approximately 40 students, Eric Berndt ('06) and the two law students who organized the protests against Justice Scalia, Eric Prindle ('06) and Bert Leatherman ('06). At the end of some short remarks, and before taking questions, Mr. Foreman presented the

three third-year students with plaques honoring them for their actions, especially in light of a controversial apology by the law school administration.

After Mr. Foreman's comments, I had the opportunity to ask him some questions about the awards ceremony. I first asked him whether he thought he might be sending the wrong message by giving an award to Mr. Berndt for what is viewed by many as a rude and immature question. He commented that he felt that Eric's question was entirely appropriate, and that Mr. Berndt deserved to be honored, especially after what he felt was the "chilling response" of the administration.

Moving on to the protests, I asked him if he agreed with the protester's methods, which included liberal use of profanity on a public street corner and loudly disrupting the ceremony of the Annual Survey honoring Justice Scalia. Mr. Foreman reiterated his belief that Justice Scalia is so offensive that he must be protested at every possible opportunity and that the awards were given for organizing the protest.

Commenting specifically on the use of profanity, he stated that he disagreed with the use of profanity, but felt that it would be im-

possible for the organizers to police every person in the protest. When I indicated that Mr. Prindle and Mr. Leatherman apparently were among the protesters who were screaming profanity, Mr. Foreman felt that, even if this is the case, the law school is also guilty for even inviting Justice Scalia to the law school. Depending on one's perspective, this could be fighting fire with fire or a case of the ends justifying the means.

Foreman began his remarks by noting that he came to visit the law school to "honor people" for what happened when Scalia came to the law school last year. He stated that he was "stunned" that Justice Scalia was invited by the law school to be given an award.

Foreman used a small amount of time to discuss the gay and lesbian movement, explaining that he wanted to look back at where the movement has been, and where it needs to go to achieve success. He explained that he feels that the gay and lesbian movement has made a mistake over the years by framing its arguments solely as a matter of legal rights. The problem with this argument, he indicated, is that it takes human emotion out of the equation, ignoring the moral and faith-based arguments that have been used by



Matt Foreman, '82 of the NGLTF

opponents of the movement.

Thus, Mr. Foreman argued that, going forward, the movement should be organized around a "framework of basic humanity." He criticized right-wing opponents of the movement, saying that moral arguments against homosexuality treat homosexuals as "less than human."

After finishing his remarks and handing out awards to the honored students, Mr. Foreman took the questions of students. First, a student asked what the most important fight for the LGBT movement was. Mr. Foreman, while refusing to name any one fight as predominant, indicated that the movement is reaching a time of transition, where the marriage fight is almost at an end.

Another student asked what an effective strategy is to get minorities back into the liberal coalition with the LGBT movement. He frankly stated that a major problem with the left is that everyone is balkanized around their own issues. He did feel that currently the face of the gay and lesbian movement is white, so that in mi-

nority communities the message doesn't resonate as well as it does in other communities.

Regarding Democratic candidates for president, Mr. Foreman had criticism of John Kerry, saying that he was "all over the place" on the issue of gays. He felt that gays and lesbians should show their displeasure with candidates by refusing to back them financially, even if they would appear to be the lesser of two evils. Finally, Mr. Foreman was skeptical of Hillary Clinton, stating that she "is certainly not a liberal, certainly not a progressive."

Asked to comment about the awards ceremony, Vice-Dean Clayton Gillette, who attended the ceremony, stated, "I was invited to the event by students from OUTLaw. I was happy to accept, as OUTLaw has been an outstanding organization and I greatly appreciate their cooperative and constructive role in matters such as planning events surrounding military recruitment. That, of course, does not mean that I agree with every member of the organization on every issue."

Vice-Dean Gillette also clarified that the Law School did not originally invite Justice Scalia, "Mr. Foreman's remarks refer to the Law School's invitation to Justice Scalia. My recollection is that the invitation was extended by a student group, the Annual Survey of American Law."

Foreman is a distinguished alumnus of the law school, where he was President of the Student Bar Association. Prior to joining NGLTF he worked for other gay, lesbian, bisexual and transgender organizations, serving as executive director of the Empire State Pride Agenda and as the executive director of New York City Gay and Lesbian Anti-Violence Project.



Eric Brendt, '06, Eric Prindle '06 and Bert Leatherman '06 honored by NGLTF for Scalia Protests

NYU Panel: Anti-terror Tactics "Doomed to Fail" Without Sharing

BY NICHOLAS KANT '06

In the wake of the events of September 11, 2001, anti-terrorism laws in America and Europe went through many changes. But there are still changes that need to be made, and concerns that need to be addressed.

That was the topic when the Hauser Global Law School at New York University School of Law hosted another discussion in the panel series "Europe and the United States: A Transatlantic Dialogue."

The event happened Wednesday, Nov. 23, in the Lester Pollack Colloquium Room on the ninth floor of Furman Hall. About 30-40 students attended.

The panelists invited to speak were Valerie E. Caproni, general counsel of the Federal Bureau

of Investigation; and Jonathan Faull, director general of justice, freedom and security for the European Commission, an organization that makes proposals for European Union legislation. The panelists spoke on anti-terrorism issues from an American and European perspective, respectively.

Moderating the event were Law School professors Samuel Issacharoff and Professor Martin Schain.

Professor Issacharoff began the panel by asking Caproni how she went from a federal clerkship and being an assistant United States attorney to being general counsel for the FBI.

"I wish I had a clear answer," she said. "If someone looked at my resume, they would think I

couldn't hold a job. I was in private practice, and to put it bluntly, I was bored. Robert Mueller [the director of the FBI] called me and asked me to join the FBI."

It was a new kind of job for Caproni, but that didn't stop her. "Just because you haven't done something before doesn't mean you can't do it," she said. Caproni said to go ahead and try something new if you think it will be a good fit for you and "the expertise will follow."

Then, Professor Schain asked Faull how his job had changed in the last 25 years. "Unlike Valerie, I have done a number of different jobs, but always with the same commission," Faull said. "I have used my law training in various ways, but not in practicing law. I have used it in being a

bureaucrat, in being a public servant."

Following that, Professor Issacharoff got into the meat of the discussion by asking about counterterrorism. "There was a perception that we did not have in this country laws that were adequate for the threat of terrorism,"

Issacharoff said. "The sense now is that American laws have changed dramatically to address the threat of terrorism. The question is: how have the laws changed, and if you had a wish list, what would it look like?"

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Anti-terror Tactics: “Doomed to Fail”

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Caproni responded first. “They have changed a lot,” she said. “We take a much more proactive stance to try to disrupt terrorist activities before they happen.” However, Caproni questioned the appropriate balance between security and civil liberties, asking whether it would be worth the loss of freedom to wiretap every phone in the country.

Caproni also brought up an issue for prosecutors. “Can you deal with sensitive sources in a public trial without jeopardizing their confidentiality?” she asked.

Caproni’s wish list? She stated that above all she wants the laws of the Patriot Act that are due to discontinue, or “sunset,” to continue.

Faull then spoke about European response to terrorist attacks. “There was been a lot of new legislation at the national level within the European Union,” he said. “We take the systems of our member states more or less as they are.”

But Faull did say there were



Jonathan Faull, director general of justice, freedom and security for the European Commission

issues of the different European countries recognizing the laws of the others. And he added that faster extradition is an example of what is working.

Next, Issacharoff asked about monitoring communication. Caproni used the question to address technological issues, indi-

cating that, “tapping the Internet is a technical challenge,” as well as lamenting that, “Many cellular phones now have unlimited dialing, not like when calling long distance was an additional charge. Therefore, the phone service providers don’t keep track of many calls as scrupulously as they used to.”

“We need that data,” Caproni said.

Unanswered calls are not kept track of at all because they are not billed, Faull added.

“The police tell us that unanswered calls can be very useful data,” he said.

As the panel neared the end, Professor Schain asked the panelists about issues that arise when it comes to sharing information. Caproni emphasized the importance of sharing information: “The notion that the [FBI] took away from 9/11, big time, is that you have to share information,” and if information isn’t shared, “we’re doomed to fail.”

We wish everyone good luck on finals (grading and taking)!



Hopefully we'll see you all next semester!

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General Counsel of Estee Lauder Details Corporate Ladder Climbing At Law & Business Luncheon

BY NICHOLAS KANT '06

If you want to try to have it all, you will never get any sleep. That was the message from Sara E. Moss, alumnus of the Law School and general counsel for The Estee Lauder Companies, Inc., when she spoke Thursday, Nov. 17 as part of the Student Luncheon Lecture Series sponsored by the NYU Center for Law and Business.

While a crowd of about 30-40 law and business students finished eating and drinking from the buffet, Moss spoke about women practicing law, her career and going to NYU Law School.

When she went to high school in the mid-1950s, going to law school never occurred to Moss because where she grew up, women/girls were either nurses or teachers, she said. And in fact, she was a teacher in New Haven, Connecticut, she said.

“This was the late 60s, early 70s, I was married to someone who was at Yale Law School, and that was it,” Moss said. “I was a cheerleader in high school, now a teacher, married to a guy who was in law school, and it was, perfect, right?”

But then Moss discovered that there were women in her husband’s class.

“I have to tell you, it was just a real revelation for me,” she said. “It was a really exciting time. My vision of my life and my future really changed dramatically, and I decided to go to law school.”

Moss was accepted into Yale Law School, but her husband

didn’t want to stay in New Haven. So Moss and her husband decided to move to New York. She was accepted into Columbia Law School, and also NYU Law School.

“Everyone told me, ‘go to Columbia,’ because in those days, 1971, Columbia was dramatically better regarded than NYU,” Moss said. “But at the time, NYU had more women than any other law school in the country. My class



Sara E. Moss, General Counsel for Estee Lauder

was twenty-five percent women. I know that sounds small now, but that was huge.”

And there were other differences, also.

“There was this excitement here that just wasn’t present at Columbia,” Moss said. “Columbia had an escalator, and it was just very business oriented, and I did not want to go there. I wanted to go to law school to change the world. And you can see what a

great job I’ve done.” At that point, Moss and the crowd laughed.

Moss told her audience that she wanted to focus her talk on how to “follow your passions, follow your heart, and take risks.”

For example, Moss was working at the law firm of Davis Polk & Wardwell. But she really wanted to try cases, and she had the opportunity to work at the U.S. Attorney’s Office, she said. Moss told the crowd that the firm told her not to go, to stay at the firm, and that if she did go, she would not be able to come back. Even though life was good at the firm, she was determined to take the risk.

The story has a happy ending however, as after spending some time as an Assistant United States Attorney Moss had learned to litigate cases, and Davis Polk ended up wanting her to come back, she said.

Eventually, Moss became General Counsel at Pitney Bowes Inc., a large mailing and document and technologies company. Eventually she moved to her current, more glamorous job, as General Counsel for the cosmetics company Estee Lauder.

Even though Moss’ story reads like the shining American success story, she did say that between raising children and continually climbing up the proverbial ladder, she hasn’t gotten much sleep.

Round One in the Offshoring Debate is Just Getting Started

By Craig Winters, '07

The stupendous growth of China’s manufacturing sector was the furthest thing from my mind when I attended a symposium on securities law last week at Columbia Law School. The symposium billed itself as a forum to debate “shareholder rights,” and I expected to hear hedge-fund and other shareholder advocates debate Marty Lipton on the finer points of anti-takeover defenses, like the poison pill (which Lipton invented).

One of the symposium’s first panelists, however, jolted the crowd of a hundred or so law professors with a pseudo-populist, jingoistic diatribe on – you guessed it – China. It was all the more surprising because the critique was launched by Judge Leo Strine of the Delaware Chancery Court. Judge Strine is perhaps the nation’s most famous (active) corporate law adjudicator, and the sheer volume of his 100+ page long decisions cover nearly every minutiae of corporate law jurisprudence.

Strine’s point combined the historical and the present. Way back in the 19th century, state legislatures chartered each corporation, and those corporations thus chartered had a limited ability to pursue profit-making enterprises. A candle-wick manufacturer, for instance, couldn’t begin selling insurance products – they had to stick to candles. If the candle manufacturer wanted to get into insurance, it would have to go back to the legislature and ask for permission to amend its charter.

Businesspeople went through this tedious process because a corporate charter offered limited liability; that is, individual investors (for the most part) couldn’t be sued personally for the acts of the corporation. In this respect, limited liability corporations offered a huge legal advantage over partnerships, which offered no such protection. So to the legislature savvy businesspeople went.

In the late 19th century, corporate advocates enticed legislatures to end their monopoly on corporate charters by establishing the general corporate law, which allowed corporate-status seeking businesspeople a routinized process to create a limited liability corporation. No longer would the legislature approve every individual corporate charter. Now, all that corporations had to do was follow a set of rules, pay a filing fee, and presto, limited liability corporation established. The candle manufacturer could now, if it had self-constructed the proper language in its boilerplate charter, get into insurance, dog food sales, vacation home rentals or whatever.

I’d wager that every corporate law professor at NYU Law would say that this development was an unambiguous good thing. Corporations could now be formed for less money and would be more flexible in response to new profit-making ideas. That’s what I was taught in my corporations law class, and I really hadn’t given it a second thought. Until last week.

Strine said that corporations were failing in their duty *to soci-*

ety. He said that the relentless offshoring of U.S. jobs was a betrayal of the implicit pact made between advocates of the general corporate law and late 19th century state legislatures. His point was that if someone had told those 19th century legislatures that corporations would use the general corporate law to send every job possible to China and India, and that corporations in the future would exist solely to maximize the short-term buck over the long-term destruction of U.S. earning power, no legislature in the country would have passed the general corporate law.

Strine is obviously right about the willingness of elected legislatures to voluntarily cut the economic throats of its constituents. For the hundred years between the 1880s and the 1980s, however, this point was largely moot. America was the industrial workshop of the world, China and India were economically stunted, and offshore tax and regulatory havens like Bermuda – where even Eliot Spitzer can’t go after corporate boogymen – had yet to come into their prime.

Today, all of that has obviously changed. But changed how? Strine’s analysis was that the relentless pursuit of offshoring to increase corporate profitability at the expense of all other considerations (like wages, jobs, manufacturing skill, and consumer buying power) is permanently damaging America’s long-term economic health. And America enabled this by granting corporations limited liability in the first place.

During Strine’s talk, the crowd of law professors fell eerily silent. I’m no expert, but I suspect it was because the logical conclusion of Strine’s observations was that the grant of limited liability could be used *as a weapon* by legislatures against corporations in the brewing offshoring debate.

Merely speaking this idea out loud seems nearly fantastical. It’s almost unfathomable to imagine a state legislature (most likely Delaware) stripping a corporation of its charter because it decided to shut down a U.S. manufacturing plant or invest in a venture in China. In fact, this is exactly what Wall Street *rewards* companies for doing. Numerous studies have shown that corporate decisions to offshore jobs or fight employee unions increase a corporation’s stock price. IBM and GE, to name two of the largest U.S. corporations, have both bet their future earnings growth on India, China and the developing world. Strip IBM of its charter? Come on.

Yet Strine may be on to something. Wages among the American middle class over the past ten years have been flat, while wealthy investors have doubled, and even tripled their income. Three million manufacturing jobs have been lost in recent years, and while most have been replaced by positions in the service sector, those jobs pay less, have fewer benefits, and offer almost no job security.

And “job security” is a funny thing. Workers who make decent money and by all other measures are prosperous mem-

bers of the middle class don’t *feel* good about the economy if they fear they could be pink-slipped any day. And globalization and offshoring is culprit number one in feeding economic insecurity.

By many accounts, the coming explosion of offshoring activity over the next ten years will dwarf the offshoring of the past ten. For instance, Delphi Corp., the largest American auto parts supplier, recently filed for bankruptcy. Delphi’s executives (who are under investigation by the SEC for accounting fraud) asked the bankruptcy court judge to cut the wages for Delphi’s unionized workers from \$35 an hour in cash and up to \$30 an hour in health care and benefits costs to \$9 an hour *in total*. That’s \$65 an hour down to \$9 an hour. This is the Mother of All Pay Cuts.

Meanwhile, Delphi’s China operations, which weren’t included in the bankruptcy filing, is projecting astronomical growth, and may eclipse U.S. operations in the near future.

Welcome to the Future, America.

It’s still hard to imagine a legislature smacking around IBM, GE or Microsoft and threatening to wipe them out if they offshore jobs. But if enough corporations go Delphi, bankrupting workers and pension funds along the way, and huge chunks of America spend their entire adult life in fear of job cuts and lost benefits, some folks just may start running for office with funny ideas about corporations, and jobs.

Old ideas. 19th century ideas, to be exact.

Conservatism 101: A Quick Introduction to a Conservative Ideology

By Josh Parker '06
Pres., NYU Law Republicans

Eds. Note: This article is an introduction to the “right” [or “con”] side of a series of debates that will take place next semester between NYU Law Republicans and the Commentator’s resident left-wing journalist, Craig Winters. Expect debates next semester on topics such as taxes, welfare reform, and social issues.

I’ll let the cat out of the bag: political conservatives are generally misunderstood at NYU. While there are more of us here than one would guess, many are unwilling to identify themselves as such. It is intimidating to take a public stance that is vehemently opposed by the vast majority of your classmates and professors, especially when that stance could easily earn you any number of frightening labels: racist, corporate sell-out, chauvinist, religious fanatic, homophobe, war monger, etc.

Believe it or not, these epithets are wholly undeserved. The tenets underlying conservative policies rest on solid philosophical and moral grounds, although some creeps of all sorts identify themselves with us (as some do with liberals). It is all too easy to isolate a policy, presume an illegitimate motive, and slander the person who proposed it based on your own presumption. Law students should know better.

For those unacquainted with conservative ideals, I hope this article will help dispel some misconceptions. I am serenely confident that conservatism, when viewed objectively on its merits, will continue to withstand scrutiny.

Autonomy

Many conservative policies, both fiscal and social, spring from dedication to (and belief in) personal autonomy. Some of us are influenced by religious faith, some by empirical evidence, some by nothing more metaphysical than the natural feeling that nothing compels our decisions — our choice of Fruit Loops over Captain Crunch this morning was not predetermined by our relationship with an overbearing mother twenty-some odd years ago.

A belief in an individual’s capacity to make his or her own choices is ultimately a belief in the power of the human spirit. Nobody was raised in a perfect home or a perfect world, but conservatives are persuaded that people can (and often do) rise above unfortunate circumstances. The trick is to create a world which encourages people to use that agency wisely (similar to the way Madison envisioned a government in which the structure itself encouraged the good behavior of its leaders).

The conservative view of autonomy influences views on topics such as affirmative action and criminal punishment.

Accountability

If people truly are agents, they can and should be accountable for their actions. Conservatives do not hate the poor, nor do we hate criminals. Trust me: I would like nothing better than to see criminals abandon their crimes and be welcomed back to society, or to see every person well fed, well cared for (medically and socially), and in a decent home.

A system of criminal and economic accountability, however, is the only practicable option in the long-run. If people are autonomous, any amelioration of the consequences of their actions should affect their future behavior. Like the notorious farm subsidies, policies which insulate people from the harmful effects of poor decisions create market distortions in the social sphere and eventually aggravate the malady intended to be alleviated.

Welfare, social security, and criminal policies are affected by our view of accountability.

Freedom

Devotion to freedom is further evidence of conservatives’ high opinion of the capacities and

inclinations of people in general. Whenever possible, the government should permit its citizens to arrange their lives according to their preferences — not only because people are happier when they are free, but because they can achieve their goals better when unhindered by paternalistic planners.

This principle suggests the conservative stance on private school vouchers, respect for business organizations, taxes, and limited government intervention in general.

Morality and Religion

A conservative’s devotion to individual freedom is not absolute. Besides the necessary government interventions which prevent anarchy, social conservatives tolerate other limitations on personal liberty when it is in the best interest of society. Many conservatives believe that morality cannot be divorced from public policy, and that public policy must reinforce the general morality.

Moral concerns influence the choice of many conservatives to oppose abortions. While pro-abortion activists have been able to frame this issue in terms of respect for female autonomy (which conservatives also view as extraordinarily impor-

tant), we oppose abortion for the unrelated fact that it involves killing a baby. If men got pregnant, those that oppose abortion wouldn’t want their babies destroyed, either.

Other acceptable limitations on private action include prohibitions on prostitution, obscenity, and private drug use. Some activities with no apparent direct impact on others, such as private drug use, should be restricted due to their indirect effects on morality and society. Closely related to this is the belief that morality is often tied to religion, and that neither should be surgically extracted from the public sphere.

Views on morality and religion underlie conservative policies, other than those already discussed, such as public prayer, the scope of criminal law, and the controversy surrounding the Pledge of Allegiance.

Conclusion

Reasonable people disagree about these principles, and that’s fine. But opposing affirmative action does not make somebody a racist. Or make someone who opposes abortion a chauvinist. Or a poor-hater because of opposition to the welfare state. Hopefully, the majority of liberals can continue to reasonably debate the issues, with conservatives reciprocating in kind.

Taking a Risk v. Playing it Safe

BY NICHOLAS KANT '06

Generally, most people want to do the best they can in each individual task.

And the better a person fares when it comes to each individual task, the better that person does when it comes to life in general.

And what causes a person to excel in each individual task? My argument is that it comes down to weighing each and every risk and deciding correctly when to take a risk and when to play it safe.

First, we have to start with the proposition that to excel in anything, a person needs to take risks. A person who takes no risks gets nowhere. Doing the same old thing throughout every task, every time, means a person doesn't move forward. Without risk, at best, the person stays at the same level of achievement. But easily, the person can end up moving backward when others take risks and move forward.

Let's look at an example. Let's say I'm doing a closing argument for a case in court. Last time I did what you might call a standard closing, just speaking, reasoning with the jurors in somewhat of a monotone. This time I've got an idea. My idea is to get all into it and speak loudly and bang my hand on the table and get all crazy. That's obviously a risk. Before I do it, it's hard to say if really doing it will be good or make me look like a fool. I can't predict the future, so I need to decide beforehand based on my own thoughts and maybe the advice of others. But as I suggested above, I might be even

worse off if I just maintain the status quo, and refuse to take risks and move forward.

Let's look at another example. Let's say I like a girl. I ask her out, she says, "Yes, let's meet tomorrow at eight." What do I say in response? I could say, "Excellent, lets meet in the courtyard." That's kind of a risk, it might make me look overeager. I could also

It comes down to not being satisfied until the hour before death.

say, "Sounds good, let's meet in the courtyard." That's more of a middle ground, I don't seem as eager (or desperate). Or, maybe the safest route, is just to say, "Let's meet in the courtyard." And if she wants to meet at eight, maybe I should quote the Bob Marley line, "I'll meet you at your house at a quarter to eight. Baby, baby, just you have some faith. I promise you we're gonna rock it baby, rock it baby, all night." That might just make me look weird. But again, I might be worse off if I just maintain the status quo and don't put a little flair and/or personality into it.

So I've got the closing argument, and I've got the girl. I can take a risk with either, both, or none. I face decisions like these all the time, and so does everyone else in the world. The perfect person would make the right decision every time about when to take the risk and when to play it safe.

But just as no one is perfect,

no one could possibly make the right decision every time. The key to being our best, and doing our best in life, is to make the right judgment as often as possible. Each individual decision adds up, and it adds up to life.

But also, each task can be broken into the tiniest of decisions. For example, I discussed my closing argument as a whole. It

could actually be broken down into tiny segments. Like should I say this risky sentence or a different, safer one? Or should I take my shoe off and bang it on the podium, or just my hand, or not do it at all?

Eventually, you add up all the decisions, and you have a full day. Add more decisions, you have a month, then a year, then a decade, and eventually you are an old man or woman looking back on life. Looking back on a life of decisions. A life of taking risks at times, and playing it safe at other times.

And that begs the question, how should life be lived in the first place?

Take me for example. A lot of people might say, "You can't live life in the slow lane. You shouldn't play life safe." But then maybe I decide to act all crazy and say crazy stuff, and my friends think I'm funny and cool. Or maybe they decide I'm annoying and obnoxious, and then they don't want to

hang out with me.

Or the closing argument – maybe I shouldn't even be making the argument at all. Maybe I shouldn't be in law school in New York at all. Maybe I should be a bartender in L.A.

Or the girl. Maybe I should be going out every night and meeting other girls. Or maybe I should be staying home studying. Or maybe the perfect girl for me is playing it safe and staying home and I'll never meet her.

So life, at its most base level, really comes down to decisions. Playing it safe all the time is to live a bland life, growing old watching TV and then dying at home alone and no one finds out until months later (which I believe actually hap-

gettin' out of bed today." And I'm sure we've all felt like that once or twice.

So all we can do is our best. But that means taking the day when life has us beat down, wanting to play it safe at home, in bed, and coming back the next day swinging, wanting the risks. Being unafraid of the risks.

But we also need to be smart and know when only a fool would take a certain risk, like taking his shoe off and banging it on the podium. Or quoting Bob Marley love songs to a girl he barely knows.

But as I said above, and we all know, I can't predict the future. No one can. So even though I might look like a fool because of

Only a fool would quote Bob Marley love songs to a girl he barely knows.

pened recently in New Jersey). Or, take all the risks, burn out too quickly, and die young (or something like that).

So it really comes down to finding the balance. Finding the right balance.

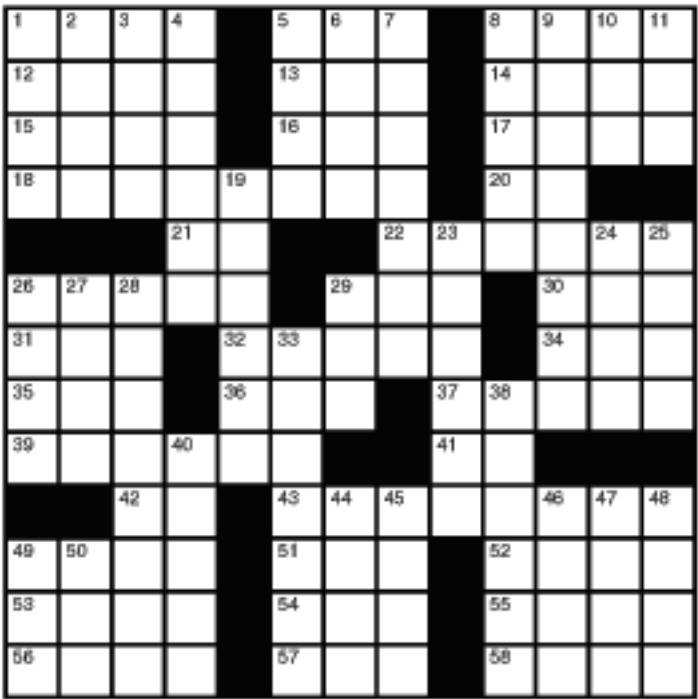
And not being satisfied until the hour before death.

"There is no hope for the satisfied man," said Frederick G. Bonfils, 1861-1933, founder of The Denver Post. They quote him in every edition at the top of the opinion page.

But Bradley Nowell, of the band Sublime, once sang, "I ain't

some risk I took, that is usually my preference. My urge is to take risks because that's when I reach uncharted territory, experience new things, and find out the most about myself and others. However, I sometimes force myself to temper that urge because I sometimes feel beat down, I sometimes annoy/frighten others, and I do sometimes "play the fool." All the while, keeping in mind that, "There is no hope for the satisfied man" (or woman).

Commentator Crossword



Across

1. Chowder
5. AKC fav.
8. Muslim prince
12. Ready for a challenge, with "it
13. Fast Formula?
14. ___ Campbell
15. Vegetarian no-no
16. Santa ___
17. Votes against
18. NYU Crim. Pro. Prof.
20. Austin Univ.
21. You, in Oaxaca
22. Dentists' tools
26. Zeal

Down

29. Lion sign
30. Yes, in Nice
31. Hawaiian staple
32. Emotionally unstable
34. The whole amount
35. McMahon and Sullivan
36. Summer mo.
37. Terrible
39. Take back
41. City of Angels
42. Trendy
43. Saw type
49. Full-time employer of 18
- Across
51. Edge

52. Stretch, like your back
53. Fisherman's necessity
54. Poetic tribute
55. Liver secretion
56. Regrets
57. Write
58. Bowie's wife

Down

1. Totals
2. Oil org.
3. Great Salt Lake state
4. Homemade gun type
5. Do nothing
6. Bancroft or Frank
7. Sporting facial hair
8. Boredom
9. "I'd Do Anything for Love" singer
10. Wall climber
11. Thing, legally
19. PILC location
23. Kansas City baseball team
24. Humdinger
25. Window threshold
26. One who mimics
27. Went by horse
28. Luke, Peter or John
29. Type of cabin
33. Rock projection
38. Sushi accompaniment
40. South American mountains
44. Cyclone or Zipper
45. Sign of the future
46. IL req.
47. Home of the Bruins
48. Alternative to now
49. Radio news provider
50. Who Uncle Sam wants

Add your name to the masthead.

The Commentator is still looking for news, arts, sports, and opinions writers, as well as a comic artist or crossword designer (computer program available to assist).

Contact
chrismoon@nyu.edu.
Do it before the next issue.



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Artic Monkeys: Set for World Domination

BY BRIGHAM BARNES '06

First of all, “The Arctic Monkeys” is a horrible name for a band. Moving on then...

I have spent too much money and too much time in catching alleged next-big-things from England making their first US appearances while living here in New York—Dizzee Rascal, M.I.A., the Rakes, Test-Icicles, Lady Sovereign, Art Brut, etc. etc.—it was getting exhausting, so I promised myself that the Arctic Monkey’s “First Ever US Appearance!” at the Mercury Lounge back on Tuesday November 15th would be my last such “next big thing” show for a good long while.

My fellow students, I don’t want to brag, but I saved the best for the last and picked the perfect show to end my obsessive trend-tracking with.

There is hype and then there is HYPE and the British press and cooler-than-you US bloggers have lavished the Arctic Monkeys with the hype of the latter variety. British rock critics have praised this Sheffield four-piece as “the next Oasis” and called their singer, Alex Turner, “the finest lyricist since Morrissey.”

Without even having yet released an album, the band has already had numerous number one singles in Great Britain and their first London concert instantly sold out two smaller venues before instantly selling out the city’s largest rock club. Again, we’re talking about their first concert here. And we’re talking about the strength of a few singles, because, again,

the Arctic Monkeys haven’t even recorded an album yet. In short, it is ridiculous the attention and talk that the Arctic Monkeys get, so I had no choice but to get a ticket to their show at the ridiculously intimate Mercury Lounge to see what they were about.

And here’s my quick, upfront verdict on this band: It is quite possible that the British press hasn’t exaggerated one bit about their talent and potential. While their stage show is quite subdued (they don’t move around much, but they do play their instruments very, very fast) they are such, such a good band. They’re just 4 kids, none of whom look like they could be older than 19, but the music they play is so, so tight and Turner (my research has been shallow, I don’t know his last name) has a perfect rock voice.

In an age where bands like the Test-Icicles try to out-Vicious Sid Vicious with sloppy, collapsing, bound to self-destruct shows, it was so refreshing to catch a band that could actually play their instruments and play them quite well. Simply put, I could not have been more impressed, hype could not have been more justified.

Instead of me just gushing, let me tell you a bit about the show. The band took to the stage to the strains of “Tha Next Episode” by Dr. Dre and Snoop Dogg. Why? Because they’re a bunch of kids. The club was packed with record label types and photographers from major music magazines, all sorts of hungry old men with plans for making loads of money off this band (they’ve already signed with



Epic in the US).

Seconds into the first song I, and most of the audience, had been completely won over. The band wasn’t stingy with the awesome, they played their “big hit” “I Bet You Look Good on the Dance Floor” almost right away . . . it was a trick to keep the crowd really worked up, as most of us hadn’t heard most of their songs before. The band kept the set tight and strong through twelve songs and, despite having almost not moved around the stage at all dur-

ing the whole set, the band threw down their guitars at the end of their last song (the absolutely magnificent “Certain Romance”) and the drummer kicked over his kit. That’s always a good sign that there won’t be an encore.

Watching the Arctic Monkeys, it was easy for a long-time Britpop fan like myself to think ridiculous things, things like “I wonder if this is what Blur was like when they were starting out” or “I wonder how soon they’ll be selling out Wembley Arena.” And

maybe it’s just easy to want to believe that you’ve gotten in on the ground floor of fandom with a band that’s got a serious career ahead of itself, but there’s certainly something about the Arctic Monkeys that suggests they could go very, very far.

Now if they could just do something about that name.



Fantasy Football Roundup: A Look Back & Forward As the Playoffs Begin

BY CHRIS MOON '06

At the beginning of this semester I gave a rundown of my fantasy football draft, promising to let loyal readers of the Commentator know if my team was winless as the fantasy season wound down. Well, luckily my team isn't winless. Sadly, it isn't undefeated either.

As a quick review, my league this year consisted of 10 teams, with 6 teams making the playoffs. Division winners get a bye in the first round of the playoffs. Our playoffs begin next week, where the four "wild card" teams face off against each other. Scoring is close to most other scoring systems, 1 point for every 10 yards rushing and receiving, 1 point for every 25 yards passing, and 6 points for every touchdown. We use a QB, 2 RB, 2 WR, 1 TE, 1 K, 1 Defense, and 1 Flex (RB or WR).

12 weeks into the season my fantasy football team has a record of 7-5, which has us in a tie for 3rd place in the league. We've clinched a spot in the playoffs. We have an almost certain victory this week, as the team we are playing against is the weakest in our league, so at worst we'll end up in a tie for 3rd. This puts us in a good position for our fantasy league playoffs, which begin next week.

With a record of 7-5, it's clear that the season has been up and down, so I'll give you a rundown of the players at each position on my team, with an analysis of my drafting:

Quarterbacks: Carson Palmer and Jake Plummer.

After the first week of the season, when Drew Bledsoe threw for 400 yards, the person with Daunte Culpepper as his starter dropped Carson Palmer for Drew Bledsoe. Bledsoe has been okay, but Carson Palmer has been the top quarterback in fantasy football this year. As soon as we saw he had been dropped, we added him to our team. Eventually, we dropped Drew Brees, as he had the same bye week as Palmer. Plummer

has been a fine backup. Sometimes it's nice to enjoy the dumb moves of other teams.

Grade: A. You can't ask for much more than Carson Palmer at quarterback.

Running Backs: Corey Dillon, Julius Jones, Mike Anderson, Larry Johnson, and Ronnie Brown.

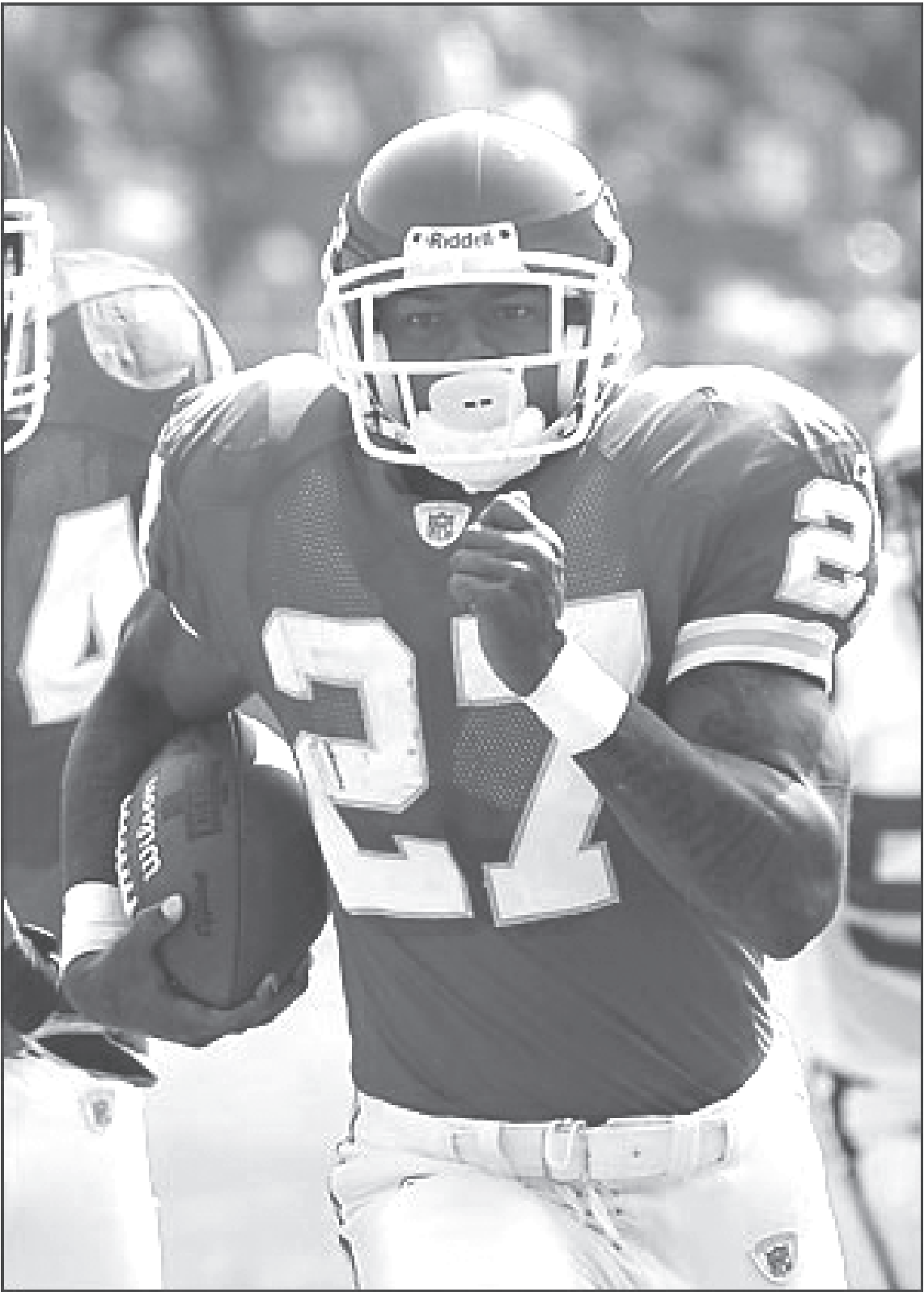
We drafted Dillon and Jones with our first two picks (9 and 12 overall). Both have been huge disappointments, but most of that has been because of injury. I'm still confident in both players when healthy, but their struggles has hurt our team. Mike Anderson has been a good #2 running back most of the season, but because of the running back by committee in Denver he has been up and down (three touchdowns two weeks ago, 1 fantasy point this past week).

Larry Johnson has turned into one of the top 5 players in fantasy football after Priest Holmes was lost for the year with a concussion. We drafted Johnson pretty late in the draft thinking that Priest was injury-prone. Even before Holmes got hurt, Johnson was a good flex option most weeks. Ronnie Brown has also been a good flex option, although the return of Ricky Williams has hurt his production.

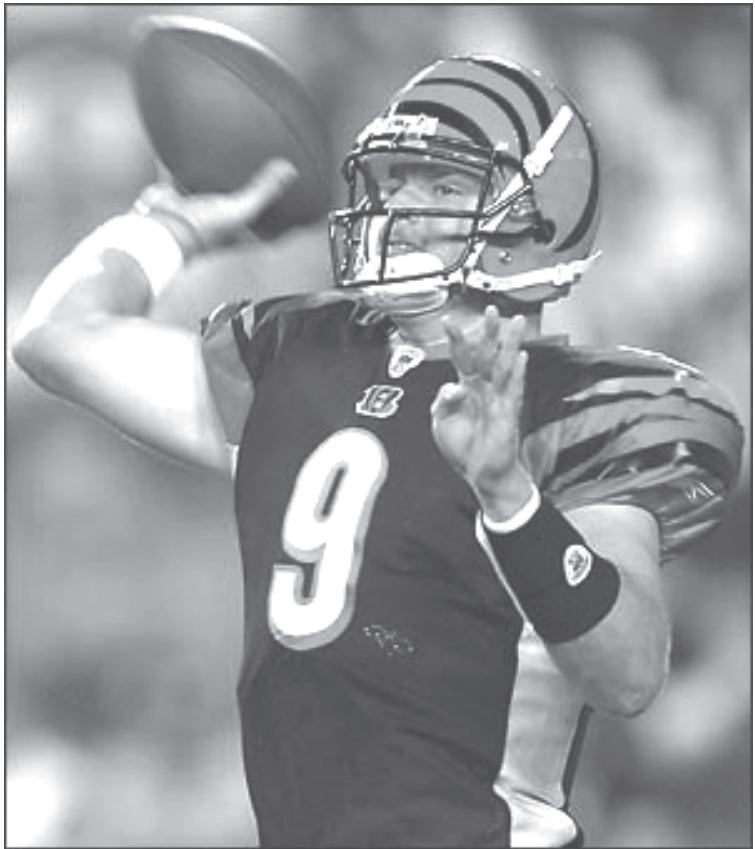
Grade: B+. Larry Johnson is right up there with Shaun Alexander and LaDainian Tomlinson when not splitting carries with Priest. Sure, our top two picks haven't panned out, but we are in great position for the playoffs if Dillon is healthy. He is clearly the lead running back in New England.

I drop this grade down to a B+ because I feel slightly bad when I think about the number of times I jokingly wished that Priest Holmes would just break an ankle. I'm not sure if wishing for leg injuries makes me a bad person, but such is the nature of fantasy football when you draft a talented backup. Those who have DeShaun Foster and Michael Pittman know the feeling.

Wide Receivers: Javon



Larry Johnson has been one of the top running backs since Priest Holmes got injured



Walker (gone), Andre Johnson (gone), Anquan Boldin, Jimmy Smith, Reggie Brown, Antonio Chatman, and Chris Henry.

Well, Walker was a great pick until he blew his knee out in the first game of the season. I probably was cosmically punished by the football gods for wishing Priest Holmes would get hurt. Johnson was a bad pick until he was hurt for half the season. I think he produced better stats on the sidelines than in the games. He's starting to produce the last couple weeks, but I dropped him five weeks ago. Boldin would have been an incredible flex receiver if the first two had produced as expected, but a bit of a stretch as a #1 receiver. Jimmy Smith has been okay, but nothing to write home about. The other receivers were all picked up for situational starts during bye weeks. None of them are worth owning in most leagues, although Brown was a good pick-up until McNabb got hurt.

Grade: C-. Our receivers have killed us all year long. Our leagues trading deadline is so early that we weren't ever able to make a move,

like Mike Anderson for Joe Horn, that might have helped both teams out. There aren't a lot of receivers out there either, so we're stuck with Boldin and Smith.

Tight Ends: Antonio Gates and Chris Cooley

Gates is the best tight end in the NFL. Cooley has been an okay backup. Having Gates has somewhat softened the sting of having Jimmy Smith as a #2 receiver, as I just convince myself that Smith is actually our tight end, where his stats would be okay. Grade: Easy A.

Defense: Seahawks and Broncos. Start of the year: Chargers and Jets.

The Jets defense was awful all year. The Chargers defense was actually a bit worse than them most of the year. Defenses don't win fantasy championships, so we've gone to playing the match-ups from week to week. Look for the defenses playing bad offenses and go from there.

Grade: C. This is actually a bit harsh, considering we waited so long in our draft to take a defense, but really, our defenses have

killed us all year.

Kickers: Jason Elam and Lawrence Tynes.

Grade: A-. Both kickers have been great options most weeks. I drop us down to an A- because Elam missed a field goal in the closing minutes of a Monday Night Football game with his team ahead by 20 points. Unfortunately for me, my fantasy team was losing by 1 point and the kick would have given us the victory. A devastating moment in an otherwise meaningless game.

Playoff Tidbits: Congratulations to those of you who have a spot in your fantasy playoffs. Try not to spend too much time scouring the waiver wire when you should be outlining Civil Procedure or Evidence. Now is the time to count on your fantasy stalwarts, like Tomlinson, Alexander, and Palmer. That's the easy part. The difficult part that requires a little research is when deciding who to go with at your other spots. So examine the match-ups, and try not to play someone at a flex position who is facing the Bears defense. Good luck!

SLAP Champions Crowned: Malicious Prostitution & Little Lebowski's Urban Achievers Reign Supreme

BY CONOR FRENCH '06

Hands tingled and faces grinned all around Mercer Pub last Friday as flag football players from around the law school came in from the autumn cold to celebrate the conclusion of another lively season. Two newly anointed championship squads, Malicious Prostitution and Little Lebowski's Urban Achievers, indulged in their spoils, hoisting the silver two-and-one-half-cup-holding victor's trophy and gulping delicious beer from it. Even Brandon Chock ('06), freshly released from a physician's care after nearly fracturing his shin, managed to hobble in on his brand-new crutches and join the revelry.

In the Full Contact League, Malicious Prostitution waltzed through the final stages of their storybook undefeated season. Riding a stingy defense that gave up only 22 points all year and an opportunistic offense, Malicious Prostitution dispatched of upstart Tim Meyer's Team in the semifinal before destroying the People's Army 29-0 in the final.

Each of the playoff games did, however, offer some drama. Malicious Prostitution had to rely on interceptions from Playoff MVP, Scott Maligold ('06), and a safety from Evan Cohen ('07) to put Tim Meyer's Team away. After

the game, Maligold credited his ferocious play to "hating kids who played club tennis and all that shit."

Against Gans & Co. (no girls), People's Army posted a shutout to reach the final. Often blocked by three players, Chock still proved by far the most disruptive force in the game. In the final, People's Army held the game at 0-0 through the first half before succumbing to Malicious Prostitution's aerial assault in the second frame.

The unraveling of the Less Contact League's season remains largely a mystery. With so many teams and divisions, no one really knew what to expect come playoff time. Certainly no one could have foreseen, however, that both two-time defending champion Jang and second-seeded Title IX would forfeit without even playing a game. With top-seeded Gans and Co. (some girls) already eliminated earlier in the week, the championship was officially up for grabs.

Into that void stepped 2L dynamo Little Lebowski's Urban Achievers who, throughout the season, managed to mask their superior talent with a knack for making every game seem close. Pulling it together for playoffs, Little Lebowski's Urban Achiever



dismantled the Auditors 21-0 and then sailed through the final (I actually have no idea who they played, but I imagine they played very well). Having heard that their semifinal opponents, the Auditors, were all L.L.M. students, Steve Cephas ('07) shouted, "those tax kids belong in a classroom."

Back inside Mercer Pub, someone yelled "goddamn right it's a beautiful day" and someone else said "ya'll suckas got served"

and a third person was really too tired and drunk to say anything. In one corner of the room, third-year students congregated with their teams realizing that their careers were over (except for Dakota Loomis whose career shall continue). In the other corner, first-year Lawyering groups realized that this might be the closest they all would ever get to being real friends with one another.

Across the entire room was

an electric feeling that the pastime everyone was gathered to celebrate surely is among the law school's finest. What else in law school besides frolicking and crashing into people in the park all Friday afternoon really reminds us that we have not yet joined the ranks of the overworked legal profession? Remember these Fridays fondly. And good luck on exams. They are only as hard as the nerd next to you makes them.



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