Justice Breyer: Supreme Ly Low Key & Judiciously Cosmopolitan

**By Ben Kleinman '98**

In an informative and entertaining talk that lacked the fireworks of other Supreme Court Justice appearances at NYU, Justice Stephen Breyer gave several hundred members of the NYU community a tour through his typical day, a dissertation on the travails of having judicial theories, and a dedicated candor assessment of his views and his critics.

Physically, Breyer evoked a kindly, soft-spoken grandfather. Members of the audience were overheard later comparing the Justice to PBS's Fred Rogers. That impression was probably amplified by the introduction, which referred to his being an Eagle Scout, being a national authority on regulation and administrative law while at Harvard, and having been on the national sentencing commission (while helping to create Harvard's loan forgiveness program).

The Court's Impact

Putting the role of a Supreme Court justice in context, Breyer described the minimal role that federal courts and statutes play in everyday life. He remarked that "90% or so of the law in the United States is not federal law" and that outside of federal law "is almost all family law, almost all business law, almost all criminal law..." Family law is arguably the most important law to many people, and that has nothing to do with the Supreme Court, according to Breyer.

Breyer then moved on to what the Supreme Court does.

Of the estimated 8 million original cases in the US about 8,000 result in petitions to the Supreme Court each year. Eighty are heard. So a Supreme Court justice has two jobs: (1) getting from 8000 to 80 (2) deciding the 80.

A Justice & His Clerks

Quoting Chief Justice Taft, Breyer indicated the "job of the Supreme Court is to create a uniform rule of federal law in cases in which there is a conflict among the federal courts or state courts."

Breyer is still the junior member and will be even if Roberts is confirmed. So his job during conference is to answer the door. If someone knocks at this stage decisions are tentative and everyone writes down what others say in case it's useful for an opinion. The professional attitude is maintained: Breyer has "never head a voice raised in anger. Never. Never heard one judge say anything disgusting of another."

On the basis of tentative votes the Chief (or senior justice in the tentative majority) will assign an opinion writer. The minority side will do the same. When assigned an opinion, Breyer's law clerks prepare a first draft that Breyer usually rewriting at least twice. When it's done, he circulating it to attract joiners.

After 11 years, Breyer is still junior member. His job during conference is to answer the door.

NYU Welcomes Class of 2008

Also greets large transfer class and Tulane students.

**By Jackson Eaton '07**

An emergency medical technician, a bagpipe player, a chessplayer, a carpenter—what do they all have in common? They’re all members of the class of 2008.

In an interview, Dean of Admissions Ken Kleinrock spoke to the highlights of this year’s admissions process, from the usually large numbers of transfer students to applications from victims of Hurricane Katrina.

New 1Ls

7,872 would-be law students applied to NYU, according to Kleinrock. Though slightly fewer than last year, he attributes the lower number to a growing economy. In line with recent years, roughly twenty percent of applicants were given offers, and of those just under thirty percent accepted.

Like last year, a few dozen students were chosen from the wait list. One student was admitted the day before school began.

For the first time, Duke claimed the rank of the top "feeder school" to NYU Law. Bobcat alumni took second place this year, the highest ranking yet of NYU undergrads.

This year’s 1L class has 46-54 female-male ratio. One-third come straight from senior year of college. Almost half have spent 1-4 years out of college, while nearly a fifth have been out 5 years or more. 14% of 1Ls hold an advanced degree.

Plenty of Transfers

68 students transferred from other schools into this year’s 2L class, an unusually high number. Kleinrock indicated that NYU aims to get about 50-55 transfer students.

Kleinrock explained it was difficult to predict which transfers would accept offers. Last year, a similar number of offers resulted in only 43 admitted transfers.

Some students have suspected that the school enjoys a lower-sized 1L class for its advantages in law school rankings, while reaping the tuition dollars of transfer students who are not counted toward class sizes.

Kleinrock dispelled this suggestion. "We admitted these numbers of transfer students well before rankings," he said. Moreover, he said, even if they did count they would play a small role in NYU’s ultimate ranking compared to factors like student LSAT scores and GPA.

Transfer students, he explained, benefited from the wide breadth of courses available to second and third year law students, without significantly altering the nature of the student body.

"You couldn’t put those students in a first year curriculum without having a five-section class," he said.

325 students applied for transfer admission. Although some applied because changing circumstances caused them to look to New York — for instance, a spouse with a new job in the city, most applied because of the tremendous educational and professional opportunities that NYU offers. For many, NYU had been a top choice when they originally applied to law school.

Help to Tulane

NYU Law offered admission to 10 3Ls from Tulane in the aftermath of Hurricane Katrina. However, because many peer law schools similarly relaxed application deadlines only two students accepted admission.

Kleinrock was particularly proud of the speed of the response of the Law School. Hurricane Katrina made landfill on August 29. By September 2, under the coordination of Vice Dean Clayton Gillette, NYU announced its willingness to accept law students.

Science & Martial Law

In response to a question about social science in the courts Breyer said that the material comes to their attention through briefs and it’s unlikely that legal outcomes turn on it. "Scalia, Kennedy, and others have perhaps inadvisably quoted poetry and novels. Further, there are no fixed rules about the legislative facts used in making statutes and the court has “taken such matters for what they’re worth.”

A question was asked about martial law in the context of natural disasters, and Breyer doubted that we’d lose all civil liberties in such a case. We’d still have protections. “They might not be the same, but they’re there.”

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French Judge Details Experiences At Hauser Global Law Lecture

BY YAS GAILANI (LL.M)

The “Transatlantic Dialogues” occasional panel series has been a highlight of the Global Law School experience so far. Particularly effective has been the mix of presentations in consisting of answers from some of the most eminent characters in the transatlantic legal community to the searching questions of eminent faculty members. On September 28th, 2005, it was the turn of Monsieur Olivier Dutheillet de Lamothe, of the French Constitutional Council, to be subjected to Professor Weiler’s examinations-in-chief. Dutheillet de Lamothe was very interesting to listen to, because he was both wily in his responses, and engaging in his mannerisms and intonation. I must declare immediately that my leanings are staunchly Anglo-Saxon. He has a French way of viewing the world; they have a certain way of combining vanity with beauty which I find very engaging. This play out in general terms, of which I find very engaging. This strongly Francophile. The was very interesting to listen to, Olivier Dutheillet de Lamothe, of 2005, it was the turn of Monsieur the legal community to the searching questions of eminent faculty. Particularly effective has been a highlight of the Dialogues” occasional panel series has been a highlight of the French political elite. Of considerable comparative interest was the judge’s biographical account of institutional structures in which he rose to prominence and in which he worked. Ecosystem the filter-through which all the senior civil service, senior judiciary and political class has to pass. But though elitist, the institution was not exclusive: he claimed that more than a half of the intake at the time he gained admission has been comprised of lower level civil servants from ordinary backgrounds who had worked in fields such as industrial regulation.

Of particular significance was the structure and method of his questions as to why certain laws were received. He described his training as a mixture of theoretical, class based studies and more practical internships at various public and private agencies, the aim being to teach those who would govern how government affects things on the ground. Maybe this serves to explain why French public services work so well. Upon successful completion of his studies at ENA, he joined the Conseil d’Etat. The Council serves, alongside the Cour de Cassation and the Conseil Constitutionnel, as one of the highest courts in France. Its competence is restricted solely to administrative law; unlike the civil courts under Court of Cassation, it both sets precedent and acts as a legal adviser to the French Government. In Lamothe’s own elegant metaphor, the Conseil d’Etat is thus “the only religious order which is both secular and regular.”

Because, in its decision-making, it has served to provide a measure of practical coherence to the development of the French regulatory state while guaranteeing its location within the rule of law. Dutheillet de Lamothe commands great respect both within and without France’s borders.

He served at the Conseil d’Etat, at which point he was appointed to the Conseil Constitutionnel by President Chirac. The Conseil Constitutionnel has jurisdiction to consider the validity of main legislation with the Constitution and Treaty law. To that extent, it serves a similar function to the U.S. Supreme Court, except that it is not open to ordinary litigation. Certain laws are referred to the Council (after they are signed by the President but before they are signed into law by the President) for consideration of their constitutional validity as a matter of course; but others are only optionally referred, and references in such cases are.

Justice Breyer Speaks to NYU Law Community

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Theory and Practice

Breyer initially demurred when asked a question about the qualities of a just society and what role the Supreme Court has in creating one in America, saying that academics are closer to the philosophers than to the justices. “As judges, what we’re trying to do is enforce the Constitution so judges don’t substitute their own views.” He cited Learned Hand in stating that Judges are limited by the document.

Another questioner stated that empirical research has shown that different branches react to public opinion with different time lags and asked for Breyer’s reaction. The says he deliberately insulates himself from press, friends, and family on certain cases. With more controversial cases the justices will reverse the names and the political parties and see if they still come out the same way.

While political views aren’t relevant, there’s a sense that the condition of the country can be relevant in determining whether the court is a political entity. As the recent establishment clause cases as an example. The way in which the court views the establishment clause will work is different from how the countries views it today because the country has changed. There are now 50-50 significant religions and much more conflict. The justices try to get a view of the country from newspapers and, to a larger extent, law professors.

Breyer went on to say, in response to another question, that he has approaches to justice, not theories. A judge in the Supreme Court has Constitutional questions as a steady diet, and no other court has that. Over time, justices come to see the document as a whole. For example, when asked about original intent and the establishment clause, he agreed with the questioner’s assessment that original intent seemed somewhat disheartening.

He acknowledged that “people are worried about the legitimacy problem that a judge who is not elected and has the last word will inevitably substitute their views for what may be intended.” He returned to the establishment clause to expand on his response to this.

It turns out, says Breyer, that over time, the court has viewed the reason for the establishment clause as the diminishment of the chance of social conflict based on religion. The framers didn’t foresee any of the current controversies. Breyer indicated that the Kentucky judge placed the ten commandments up largely to show that he could put them up and was making a religious point. This, Breyer says, was contrary to the intent of the clause.

However, in Texas, the tables had been there for 40 years, put up to advertise a movie, were with other monuments, and had never caused a ruckus. It causes less controversy and tension to simply leave them there.

International Justice

Breyer asked about the cosmotherial nature of the court. He quickly debunked the image of judges from around the world convening to decide each other’s cases and emphasized that “we don’t think that each other’s constitutional decisions are binding.” But there’s often something to be learned. When the moderator asked Breyer if the criticism of citing international law surprised him the justice acknowledged that it did. He recounted the tale of being on a panel discussing the relationship. He told a congressman, who said the worst thing you do is cite the laws of other countries, I may be right, I may be wrong. But I explain my reasoning.

I think the roots of the problem lie not in us ourselves but the controversial opinions in which they’ve appeared. Gay marriage is a good example. “My wife is a psychologist (and you need that if you’re a lawyer). She explains displacement. You’re angry at A so you blame B.”

In the end, Breyer has his approach to justice and he takes pride in his transparency. “I may be right, I may be wrong. But when I write the decision I try to explain my reasoning.”

The Commentator

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Dutheillet de Lamothé

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open only to The President, the Prime Minister, the Presidents of the Assemblée Nationale or the Senate, or 60 deputies and senators.

The Council was created by the Constitution of 1958 de novo. As a body, it has no institutional precedent either in theory or in practice; but though experimental, it has served to guarantee the rights enshrined by the Constitution from legislative erosion. To that extent, it has proved quite successful. De Lamothé declared that as a member of the Council, he considered himself part of a “global constitutional society” which has as its task the consideration of similar constitutional questions arising in different contexts the world over.

All of this narrative was interesting. But perhaps most interesting of all were his reflections on Anti-Americanism. This side of the Atlantic, American believe that the Cheese-Eating Surrender Monkey is at the forefront of those in Europe who view the United States with unfounded and unjustified jealousy, envy, and contempt. But de Lamothé does not believe that to be an accurate representation. He liked France and America to Walter Matan and Jack Lemmon in the Odd Couple, ostensibly always at each other’s throats, but in reality deeply respectful of one another, because both were of a common revolutionary ideal. The French and the U.S. are, in that sense, closer than will ever be the U.S. and the United Kingdom, because there is a shared sense of intellectual and philosophical purpose.

He stressed the ability of ordinary people to draw distinctions in their minds between the policies of a government – which might well be opposed in the strongest possible terms – and the affection and warmth that a people who were liberated by American idealism will always hold for the population of America as a whole.

One thing we did right, was the day we started to fight. Keep your eyes on the prize, Hold on. Civil Rights Spirtual Court revisited the issue. Four years after Furman, the Court found the new statutes Constitutionally and reintroduced the death penalty in Gregg v. Georgia. The NAACP Legal Defense Fund went to work and the Su- preme Court heard their case in 1987 in McCleskey v. Kemp. In what Stevenson characterized as some of the most statistical research into the criminal justice system ever conducted the LDF focused on eight years of capital crime in Georgia and discovered that a person was 11 times more likely to get the death penalty if the victim was white than black. The odds rose to 22 times more likely if defendant is black than white. Simply put, race was the greatest predictor of the death penalty.

Leaving no doubt in the audience as to his opinion on the matter, Stevenson called the Court’s accepting over a decade in the crimi- nal justice system the Dred Scott of our generation. In essence, the court sided with it to uphold the death penalty, because if it dealt with racial disparities in the death penalty then it would have to deal with it in all aspects of sentencing. Stevenson quoted Bryan’s dis- course, caustically accusing the court of having “a fear of too much jus- tice”. Stevenson described himself as a product of Brown v Board of Education, a decision that allowed him the opportunity to attend his high school. He contrasted that de- cision with McCleskey. “In 1955 the court could have said segrega- tion is too big a problem. But they didn’t. They had a vision of jus- tice that compelled them to say no, it’s not inevitable. So the idea that we’re going to give in is difficult.” Stevenson urged the audi- ence to keep basic decency in mind. To remember that “each person is more than the worst thing he’s done.” That “if you live you’re not just a liar and if you kill you’re not just a killer.” In every person “there’s a basic human right and dignity that must be upheld and defended.

He ended with another call to stand up and be heard. Remind- ing us that options include clinics, summer jobs, and careers in public service, he highlighted the many ways to confront the huge challenge of fighting “deliberate in- difference to injustice around discrimination of race and class in criminal justice.”

“Lawyers who create justice believe things they’ve never seen. If you want to change things, go somewhere there’s injustice and helplessness and say ‘I’m here.’"
Is the $125,000 dollar starting salary a good thing? (Part One)

By Craig Winters, '07

I'd like to pose a question that may seem heretical – or treasonable – to some at NYU Law: Is the standard Big Law first-year associate paycheck of $125,000 dollars per year a good thing? Is it a bad thing? Is it a neutral good thing for whom?

For the newly minted first-year associate, who will make $40,000 a week is certainly a ton of dough. It pays for apartment security deposits, it pays for wedding bands for newly acquired status, and it’s enough cash to easily meet the burn. For the aspiring astronomical monthly loan payments. For all but the most proliferate spenders, it’s also enough money to start a savings account. Good-bye no-interest account. Good-bye no-interest checking!

Clearly, the sky-high starting salaries benefit everyone who takes these jobs straight out of law school. Indeed, I’ve recently heard not so quiet rumbling that the $125,000 annual salary should be raised.

Some New York and L.A. firms have allegedly increased their starting pay to over $140,000 dollars in base salary, and, given that the $125,000 dollar hike is pretty constant since the late-1990’s Internet boom (which drew many young lawyers to Silicon Valley companies and their related enti-

1990’s Internet boom (which drew many young lawyers to Silicon Valley companies and their related entities), one can accurately say that $125,000 is worth 10 or 15 percent less than it was in 1999 or 2000. So, in one particularly pessimistic view, first-year associates may be robbed of $15,000 or more a year.

That said, let’s put aside the argument that $125k is too low. I submit that there may be other parties in this first-year argument. A pay scale upon whose interest should be taken into account. Perhaps we can rephrase my initial question as: is the lure of a $125,000 dollar starting salary for first-year associates a bad thing for society?

Two possible answers come to mind:

One answer may be that Big Law:

Is the lure of a $125,000 dollar starting salary for first-year associates a bad thing for society?

Law salaries have created a symbiotic relationship between corporate and public interest law. The high salary offers of the biggest private sector firms act as a "safety net" for public interest lawyers. This works in two ways. Students can take low-paying public interest jobs initially out of law school, struggle with LRAP and their own poor-pay-comparison salaries, then exit to the riches of a Big Law firm after serving their communities. Or students who enter Big Law jobs right out of law school, pay off some (or all) debt while working in corporate America, and then go into public interest law.

Both of these career paths are well demonstrated by the various careers of prominent NYU Law alumni. Flipping in and out of the public sector is a common, time-honored tradition, especially so for federal prosecutors (almost all of whom come from prestigious stints in Big Law).

The other possible answer is significantly less common and requires a bit more analysis.

Let’s start with the notion that the possibility of earning $125,000 dollars is a good thing for lawyers who would otherwise go into public interest law. Is this happening? It's hard to know. But a couple of generalizations about the NYU Law student body may help.

What we do know is that a vast majority of law students enter this fine law school with every intention of participating in public interest. After all, it is our motto ("a private university in the public interest"). Many are attracted to NYU precisely for this reason: the strength of our public interest programs, clinics, LRAP and various opportunities in New York City.

A letter to the editor from the last Commentator edition supports this point. The writer said "one of the things [he] like[d] about NYU Law is that those that are contemplating public interest jobs can work side by side with those interested in corporate jobs." While no means scientific, it’s likely safe to say that NYU Law is a particularly public interest-focused law school.

One answer may be that Big Law:

Is the $125,000 dollar starting salary for first-year associates a bad thing for society?

Yet, eighty percent or so NYU Law grads will go to work at law firms before, if ever, entering the public interest (this includes students who enter law firm life after clerkships; estimates based on data from the school’s website). This percentage likely the inverse of the percentage of students interested in public interest law when they enter law school.

The question is: Why?

What happens in three years to make this so? Is it the allure of the money, or something else?

There are almost certainly other important non-pay-related factors that affect each individual. Location/partner preferences, students "biding time" until entering academics or government/non-profit jobs down the road, and possibly the relative paucity of prestigious public interest openings (note: here, the limited number of Skadden fellowships). This is, of course, by no means a comprehensive list.

However, pay rates – and the help that pay provides in making repayment plans – should be counted as a huge factor, if not the most significant factor. When you talk to someone who has reached the crux of the matter: If the driving factor is money, is this a bad thing for society?

The pay discrepancy between public interest jobs and Big Law jobs has dramatically increased over the last fifteen years. I compared the starting salaries of two top graduates going to top firms in 1989 to today’s salaries.

First, today’s $125k is not $125k. It’s more. Including bonuses, Big Law pays somewhere between $140k and $150k.

Second, the 1989 salary was in the $60k range, without bonus. Add, say, $10,000, and you’ve got $70k, or give or take $50k. So, in fifteen years, we’ve seen the starting salary for Big Law double, which isn’t bad compared to the inflation-indexed flat wages experienced by the middle class over the last ten years.

What’s happened with public interest salaries? There are no uniform pay rate for this group, but it’s safe to say that today’s $35,000 or $40,000 dollar non-federal public interest wage hasn’t grown anywhere near as fast as the last fifteen years. I’ve heard that $22,000 to $26,000 was a standard wage for public interest law in 1989, so let’s use that.

In sum, the pay differential has gone from somewhere around three-to-one for private-vs-public interest in 1989 to 4.5- or 5-to-one today. That’s a huge difference when you are working with multi-

Finally, and the questions I’ll explore in the next Commenta-
tor edition are: What exactly has driven this rise in pay? Where is this money coming from? What does this say about being a lawyer in today’s America? And what does it mean for society when a public interest-oriented school like NYU sends its top graduates to Big Law?

Stay tuned.

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No More DeLay: S.C. Should Alter Campaign Finance Views

By Meredith Johnston JD ’06

When the Supreme Court announced their upcoming docket this summer, the case in question took a backseat to the more grabbing headlines. If upheld, the ruling could radically alter the nature of American political campaign spending and how politicians do their job.

In Landell v. Sorrell, the Second Circuit upheld a Vermont state law which set a cap on how much state candidates could spend on their campaigns. Thirty years ago, the Supreme Court declared such spending limits unconstitutional in Buckley v. Valeo. Is the Supreme Court preparing to overturn, or, at least modify, Buckley?

Probably not. Given the number of times Chief Justice Roberts invoked “stare decisis” in his confirmation hearings, he is unlikely to reverse on Buckley. More importantly, there are not enough votes on the Court in favor of campaign spending limits. Although not dispositive, the denial of certiorari indicates there was not significant support on the Court for change.

Even if O’Connor might support campaign spending limits, she will probably not be on the Court by the time Landell is heard. Her replacement is even less likely to be open to campaign finance reform.

A better question is: should the Supreme Court reinter- pret Buckley to allow for campaign spending limits? The answer is a resounding yes. Another major headline from last week shows exactly why this issue is so important.

Tom DeLay faces indictment for violating his state’s campaign finance laws. Apparently, he tried to funnel large, illegal contri- butions through the state party to individual candidates. Fortunately, state officials caught DeLay, but monitoring the flow of contribu- tions is difficult and time-consuming.

As long as candidates need money, donors will find ways to get it to them. And as long as candidates can spend unlimited amounts on their campaigns, they will need money. The result is the situation we have now: multi-mil- lion dollar campaigns that force candidates to spend the bulk of their time fundraising and encour- age influence-minded donors to find new loopholes in the contribu- tion regulations. Not surpris- ingly, many Americans are frus- trated by this system, and some state legislators, like Vermont, are trying to do something about it. The Court cannot ignore the situation by relying on the doctrine of stare decisis.

Finally, if the Supreme Court were to find campaign spending limits constitutional, how would the Court do it? In Buckley, the Court weighed the government’s interest in regulat- ing campaign spending against the candidate’s First Amendment right to free speech. Although it recognized a compelling govern- ment interest in preventing corrup- tion or the appearance of corrup- tion, the Court determined that the candidate’s interest was more im- portant.

In order for the Supreme Court to find campaign spending limits constitutional, it must either decide that now the threat of cor- ruption is sufficiently compelling or that there is some other com- pelling interest that justifies regu- lating campaign spending. Alter- natively, but less likely, it could decide that spending money is not equivalent to First Amendment speech, thus reducing the weight on the candidate’s side of the balancing test.

In Loref, the Second Circuit suggested that campaign spend- ing limits would reduce influence- peddling, thereby reducing cor-ruption. How would the Court determine how much candidates spend won’t matter if they are giving. Spending limits could actually increase in- fluence, as candidates could rely on a few major donors rather than expend effort collecting many small, individual donations. As a practical matter, spending limits must be accompanied by strict contribution limits.

Instead of focusing on cor- ruption, the Court should consider new compelling interests, includ- ing how politicians spend their time and encouraging new candi- dates to enter races. If the costs of campaigns are capped, candidates will spend less time fundraising and more time attending to voters’ needs. Additionally, spending lim- its will lower barriers to entry for new candidates and may result in more vigorous primaries. Spending limits may advantage incum- bents, in that new candidates would be prevented from engaging in expensive advertising, whereas incumbents can rely on name recognition. But the merits of a particular plan are best left to legislators to determine.

The Court must merely recog- nize that there is a crisis in American politics, and that states have compelling interests in im- proving the situation. Narrow, un- principled, and outdated jurispru- dence should not block the effec- tive functioning of the democratic process.

What Is The Deal With New Yorkers?

by Nicholas Kant JD ’06

No matter where you’re from, you’ve got to admit that New York is full of people. But with so many people, I wonder why no one ever says hi, smiles or even looks at me. For example:

I must pass hundreds of people a day, just walking down the street. No one ever says hello.

There are people in every square foot of Union Square to Park, but none of them smile at me.

I stand inside a subway train so cramped that I can’t even take a step, and yet, no one even looks at me. What is New York like this?

It would seem intuitive to think that if there are a lot of people around, you wouldn’t be able to avoid people looking, smiling, saying hello…

I submit that people don’t look, smile or say hi because there are so many people around. People don’t want to acknowledge others because of a fear of being shanked.

For example, the Washington Square News, “NYU’s Daily Student Newspaper,” published “ETiquette rules to survive city life,” by Sarah Portlock, in its Au- gust 25th edition. Portlock quotes College of Arts and Sciences se- nior George Tan, “a self-described ‘real New Yorker.’” Tan “warned that, whatever you do, don’t look at anyone.” Tan is quoted as say- ing that on the subway, “eye con- tact is a dis that might lead to pain- ful stabblings.”

Whether Mr. Tan is right or not, I have some examples of my own.

Like the time I was walk- ing through Washington Square Park, and this middle-aged guy was running around squirting some people with his water gun. The guy also had water guns, and we were squirting him. As I was walk- ing by, he was only about three feet away from me, and I glanced over. The first thing I noticed was him squirting me with his water gun, which was totally unneces- sary. And also there is the time that I acknowledged this guy who was hocking his rap CD across the street from Union Square. I thought it was cool that he wanted people to hear his “underground” rap. Little did I realize that he wanted money for it. And he wanted money from me for taking up his precious two minutes talk- ing to him about it.

So yeah, if you look at some- one, someone might have happened. But does that mean that when we ride the sub- way we should be ever vigilant, and constantly concerned with not looking at a single person? Out of some paranoid fear of get- ting shanked? Is that any way to live?

Well, I’m sorry Mr. Tan, you might be a “real New Yorker,” but I have to disagree with you. If someone looks like a hardened killer, I might not even smile at him. But I think that I could at least glance at most people on the sub- way without getting shanked. Should we really be so iso- lated that in a city of eight million people we never even look at each other? I don’t think things should be like that, and I refuse to be like that.

The Staff of the Commentator would like to wish the entire NYU community a Happy Jewish New Year.
Safran Foer Novel Comes To Big Screen, Doesn’t Disappoint.

BY BRIGHAM BARNES ‘06

While it seems to be in fashion to put young author Jonathan Safran Foer down, I can’t hate: I enjoyed both of his novels, “Everything is Illuminated” and “Extremely Loud and Incredibly Close.” I read them both in huge, hungry bites and I believe that the guy knows what he’s doing. So it was with mild trepidation that I went to see the new film adaptation of “Everything is Illuminated.”

I’m willing to accept that movies based on books will invariably make certain changes in their interpretation of the source material and the directors of these films will see fit to add certain creative flourishes here and there, but the posters I had seen promoting the film, featuring the film’s star, Elijah Wood, before a psychedelic assortment of sunflowers unnerved me . . . and the trailers I saw for the film seemed excessively quirky for a book that I considered eccentric but real.

Good news though: fans of the novel have nothing to worry about, we may view this movie in peace, for it is good. "Everything is Illuminated’s" first-time director, Live Schreiber, presents Safran Foer’s tale of a young man (named Jonathan Safran Foer, played by Elijah Wood) seeking to unravel mystery of his family history in Eastern Europe in the company of an America-obsessed tour guide (Alex, played by Eugene Hutz), Alex’s grandfather (played by Boris Leskin), and the grandfather’s "seeing eye bitch" Sammy Davis Jr.

While a good deal of Safran Foer’s novel consisted of a narrative describing the very details that the character of Jonathan Safran Foer was seeking to uncover, Schrieber has left this portion of the novel out of the film, but at the same time has embellished certain details from the novel’s decidedly obscure ending, producing a much more cohesive tale for the movie’s audience to enjoy.

All in all, as it’s a fact that fans of a book will inevitably have to accept certain changes when the story they enjoy is turned into the movie, “Everything is Illuminated” is a capable and enjoyable telling of Safran Foer’s story. The embellishments and exceptions do not offend the ideas and spirit behind the original novel.

The Spectacular Commie Crossword!

Clip Out And Play In Class Instead of Solitaire.

BY JESSICA GONZALEZ ‘06

Across
1 Chair
5 Listening part
8 ___ miter
12 Bread with a pocket
13 Fly
14 Where’s the ___?
15 Rev cards
16 Fill approver
17 ___ Lee
18 Et ___ Brute?
20 Rain protection
22 NYU dean
26 Negative response
27 Music
28 Movie alien
30 Harps on
34 Small noise of distress
36 ___ foghorn
38 Like some citizenships
39 Scooch
40 Criminal’s method, for short
41 Hawaiian beach town
42 Class distraction
44 See 7 down
47 Ball of pus
53 Soup flavor
54 Type of cabin
56 Previously owned
59 Greenish-blue
61 Actor Walsh
62 Lucy’s man
63 Sole
64 Theives’ meeting place
65 Law school of 22 Across

Down
1 Facial location
2 L Rev job of 22 Across
3 Connected food
4 Frow
5 Employee of Sanka
6 Helps
7 Class topic of 41 down, with 44 across
8 Escape
9 Tell, as in a secret
10 Sigh
11 From a distance
19 You and me
21 ___-
22 Gamma and X
23 Drilling weapon
24 Candle, in Madrid
26 Alphabet end, in the U.K.
29 Banks or Cruise
31 Atmosphere
32 Two, cancer, e.g.
33 ___ - gin fire
35 Like aactus
37 Home’s bartender
43 Mechanical engineer, for short
45 Therefore
46 Vein’s wife
47 Type of sax
48 Spouse of 22 Across
49 Crazy singer
50 Winter toy
51 Scre bottom
55 Mattain need
57 Indian and Red, e.g.
58 Class for foreigners
59 Soup working, as in a cat
Five Discs: 
Indie Rock Albums To Check Out

By ILYA KUSHNIRSKY ’06

With so many albums released each year, some are bound to slip through the cracks. We listen to everything so you don’t have to, and each issue we report back on the most recent albums worthy of your attention.

Each suggestion also includes a separate “start with” section to ensure a dollar and a dream (or at least a connection to the iTunes Music Store) lets non-committal types try before they buy.

1. The Exploding Hearts

Guitar Romantic (Dirtnap, 2005)

A surefire formula for chart success in the Clear Channel age: repackage ‘70s power riffs with a knowing wink and a nod, flirt openly with Bowie-fied sexual ambiguities, then sit back and watch as pre-teens in Ramones shirts line the pockets of your vintage leopard-skin pants.

Although the garishly retro album cover art and frontman Adam Cox’s affected British accent—these likely lads are from Portland—point to another cheap cash-in, the opening riff of Exploding Hearts’ debut removes any suspicion of shameless ‘70s punk revivalism.

This is the genuine article, one of the best pop-punk albums since the first wave and a timeless punk artifact on par with the Goo Goo Dolls, Dogs Die in Hot Cars, Grandaddy, and–unbelievably—the Doors. And Cox’s identikit-yet-distinct vocals are a listenable remedy to the self-conscious vampires, sentient toys, and lovelorn robots, like, say, the Goo Goo Dolls, Dogs Die in Hot Cars, the Unicorns, and now Wolf Parade.

4. Dogs Die in Hot Cars

Please Describe Yourself (Sub Pop, 2004)

I’ve made the case before for the band’s sound, a collection of goofy, hook-filled Britpop that falls somewhere between late XTC and early Blur. Fans of the Futureheads’ infectious pop melodies and multi-part vocal harmonies—and anyone who waited in line Monday night for the only new album by fellow Glaswegians Franz Ferdinand—should investigate immediately.

On the other, there’s the undeniable quality of Elbogen’s synth- and-layered-guitar-brand of indies. Possibly, but its god-awfulness is mitigated by two factors: (1) Unlikable lead singer Jeremy Saathoff was killed in a hit-and-run accident immediately.

5. Wolf Parade

Apologies to the Queen Mary (Sub Pop, 2005)

Score

Worst band name ever? Pleated pants was recorded, bassist Chris用品 is generally owed to the band’s fantastic debut album. And their forthcoming follow-up album of the year.

Woven are the Unicorns, and now Wolf Parade, whose raw, accomplished debut is an early contender for best album of the year.

Produced by number-one fan Ian Brooks, the album bristles with the ferocity of Modest Mouse’s post-O.C. years. This is rock music at its most earnest—everything from the fragile, piercing vocals to the artful arrangements and eyes-on-the-road rhythms pulses with the intensity of a band demanding to be heard.

Start with: If you buy one rock album this year, let it be this one. If you don’t, check out the delicate melody, harmonic camara- derie, and haunting-la-la’s of the incredibly heartfelt “Dear Sons and Daughters of Hungry Ghosts,” one of the year’s best songs. Then buy the damn album anyway.
Three scintillating weeks in and the flag football season is already off to a rollicking start. The games are already fiery. Referees are already suffering verbal abuse from all directions. One player already ripped his shirt off in preparation for fisticuffs (unfortunately, this person was presumably too junior to realize that a former commissioner/player pulled that same confrontational gesture two years ago - get your own move).

All over East River Park, tensions abound but are defused by post-game euphoria. Playing under the bright September sunshine, our slightly sun-burnt faces may remind us of how much law school and New York City often interfere with our attempts to spend autumn days frolicking outside.

In the Full Contact league, the frontrunner, Malicious Prostitution, blazed out to perfect 2-0 start. What is more, they have yet to yield a single point despite the temporary absence of gamebreaker, Charles Vandenberg ('06). Playing through the pain of a malignant blister, Dakota Loomis ('07), offered post-game that “ain’t nobody, I say nobody, gonna touch the M-Peezy.” Talk about laying down the gauntlet.

Although it remains too early to tell for sure, the People’s Army (now “with” as opposed to “versus” Brandon Chock ('06)) and Minimum Contacts look set to contend. The People’s Army earned a hard fought win in a defensive struggle (and I am sure Minimum Contacts did something good as well although this commentator remains in the dark as to what it might have been).

The Less Contact league, by virtue of the great plentitude of teams, remains wide open. Defending champs, Bukola’s team raced out to 3-0 start in the Barrister Division behind solid defense and a knock for clutch plays. The only concern for Bukola may be the growing quarterback controversy between Paul Wong and David Tisch (both ’06).

On why he proclaimed himself the most underrated New York University School of Law, Student Lawyers Athletic Program: Less Contact League, Barrister Division player, Tisch claimed to be “very light on my feet. You know like the way the Madden players tiptoe along that sideline. I am like that all the time. All the ——ing time.”

In the Solicitor Division, Title IX looks the team-to-beat. In Week Three, they collided with Just the Tip in an entertaining contest, marked by bad blood between the two teams. Title IX prevailed by remaining efficient on offense while capitalizing on several mistakes by its opponent. The game also featured the first-ever sexual harassment penalty called on the field. Although the exact composition of this Title IX beast remains a bit of a mystery, this rivalry is one to look forward to come November.

A couple of final notes: As Gans & Co. continues to post win after win in both the Full Contact and Less Contact Leagues, when should we maybe start to care who they are…did the change from detachable flags to detachable belts doom the running-oriented offense of Barely Legal…will the oncoming brittle cold dampen our enthusiasm and dwindle our numbers…should young basecallers really be permitted to hit line drives at our games…and, lastly and most importantly…Who is Mike Jones?

Friday is only a couple days away. Let’s crush it.