



THE COMMENTATOR

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September 21, 2005

Distinguished Panel Agrees To Disagree on Roberts' Confirmation

By CHRIS MOON '06

A meeting that began with scholarly disagreement over the role of the Senate in the confirmation process ended with a stirring tribute to recently deceased Chief Justice Rehnquist by his ideological opposite, NYU Law Professor Burt Neuborne.

Professor Richard Epstein, visiting from the University of Chicago, joined with three faculty members of the Law School on Thursday, September 8, 2005 for a panel discussion on the judicial confirmation process and the nomination of John Roberts for Chief Justice.

In their opening remarks, the two more experienced panel members, Professors Epstein and Neuborne, were in agreement that Judge Roberts should be confirmed as long as character and

competence are not an issue. In addition, Professor Neuborne indicated that as long as the President and the Senate are from the same party, this is essentially a hypothetical discussion, as Roberts should be easily confirmed.

Neuborne also expressed his belief that Justices frequently drift towards the left the longer that they are on the Court. Neuborne, not exactly a right-wing figure, referred to this belief as "heliotropic" jurisprudence, since the justices "gravitate towards the light."

The two younger faculty members on the panel, Professors Barry Friedman and Cristina Rodríguez, disagreed with the other faculty members, stressing the importance of opposing the nomination. According to Professor Friedman, even though Judge

Roberts will be confirmed because he's "good looking and nice," it is important to oppose the nomination on ideological reasons because it is the one time that opponents of Roberts can say that it isn't okay to have him in a position of power.

Professor Rodríguez agreed in large part with Professor Friedman, stressing the importance of the confirmation process as one of the few moments when ordinary citizens catch a glimpse of the Supreme Court process. In addition, Rodríguez viewed the confirmation hearings as a chance for Democrats to articulate their values. As she put it, "I think it should all be political."

During the question and answer period, the professors responded to several questions relevant to the confirmation process.



Professors Christina Rodriguez (left) and Barry Friedman (right) support opposing the Roberts' nomination on ideological grounds.

Responding to Epstein's and Neuborne's pleas for civility, a student asked whether propriety was a good enough reason to vote for a candidate. Epstein replied that indeed, we want a culture where the President can nominate candidates without rancor. Epstein pointed to the confirmation of Clinton nominees Stephen Breyer and Ruth Bader Ginsburg as examples of minority senators refusing to make the confirmation process overtly political.

The panel also featured several interesting off-hand remarks by Professor Epstein, such

as stating that President Bush would be "out of his mind" to nominate Edith Clement for the now open seat of Sandra Day O'Connor. The NARAL ad campaign was criticized as a "disgrace" by Professor Epstein for implying that Judge Roberts supported abortion clinic bombing.

The panel ended with praise by Professor Neuborne for Justice Rehnquist. He began by acknowledging that he and Justice Rehnquist were on opposite sides on almost all matters. However, he praised Rehnquist as a spectacular administrator and a good man.



While Professor Burt Neuborne (left) wouldn't choose Roberts as the ideal, he agrees with Professor Richard Epstein (right) that the Senate should confirm the nominee.

Feldman Explains Why America Is 'Divided By God'

By JULIA FUMA '07

Noah Feldman's new book, "Divided By God," published in July has already been reviewed and discussed countless times. Called "indispensable" by E.J. Dionne in the *Washington Post*, and "audacious...and reasonable" by Alan Wolfe on *Slate.com*, Feldman brought his book to be challenged by a new audience, the students of NYU Law.

About 90 students showed up in Vanderbilt 204 on Wednesday, September 14, to hear the Constitutional Law professor speak.

He began by describing his book to the audience as part history of religion in the United States and part potential compromise. He said that from the moment that the Roman Empire became Christian to 1776, a nation's religion was decided by the religion of its sovereign. The Founders of the United States changed the meaning of sovereignty to lie in all people, thus as long as the people had different

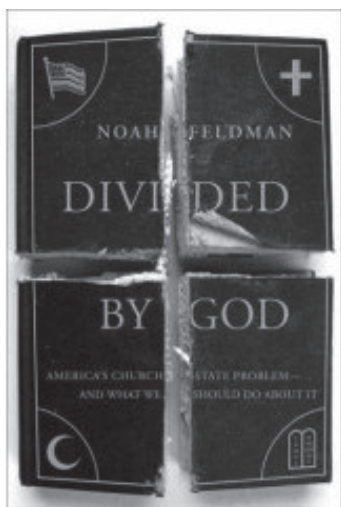
religions, there could be no one religion. Moreover, there were so many religions in the United States that no religion could dominate the others. Thus, the Founders created in the First Amendment a separation between church and state.

Practically, Feldman explained, this played out differently than one might expect. The founding fathers were obsessed with

taxation. Thus, people felt as if their freedom of conscience was violated if they paid taxes to support another person's religion. Even in states where public money would go to religion, a person could opt out of that tax. However, people cared much less about religious symbols. Every early president with the exception of Jefferson made religious declarations.

Feldman then went on to trace how throughout United States history there has been a continual negotiation between church and state. We have reached a strange situation, according to Feldman, in which religious symbols are often banned in public areas, but public money is flowing into religious institution. Each side is losing the battle it wants to win most badly.

Hence, Feldman, both in his book and the lecture, suggests a compromise. The liberals would



Dollar Wars For Katrina Relief

Hurricane Katrina and its aftermath have caused upheaval and misery for hundreds of thousands of people. NYU Law SBA created a working group to identify and implement activities so that the NYU Law community can lend its support to the cleanup and aid efforts.

Our first event is a Dollars War. Classes are competing in one overall competition that will run for

all of next week. From 10 a.m. to 2 p.m., there will be tables in the lobbies of Vanderbilt and Furman with a container for each class, including JDs/LLMs. Running totals will be posted during the week, and on Friday the 23rd we'll announce the totals.

This is part of a series of fund raising events related to Katrina that the SBA is planning for this year.

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Epstein Delivers Inaugural Hayek Lecture

By CHRIS MOON '06

On Wednesday, September 7, nearly 300 people crammed into the Greenberg Lounge to hear the University of Chicago's Professor Richard Epstein deliver the first annual Friedrich A. von Hayek Lecture in Law. Sponsored by the NYU Journal of Law & Liberty, the lecture was the brainchild of the Journal's former Editor-in-Chief, Robert C. Sarvis, and will bring a prominent libertarian-leaning academic or judge on campus each fall.

The large crowd encompassed a large number of faculty members as well as current and former NYU Law students, but the lecture also drew a strong measure of support from surrounding areas. Local professionals, undergraduates, and law students (including a contingent that drove in from Seton Hall) filled the chairs and lined the walls to hear Epstein, who was in the midst of a two-week visit to the Law School.

Dean Richard Revesz delivered an admiring introduction that highlighted Epstein's quality as both an academic and a person.

After spending nearly a full minute simply recounting the names of courses Epstein has taught—"I didn't list them all," quipped Revesz, "but I didn't list any courses he *hasn't* taught"—Revesz shared with the crowd the story of a chess game Epstein had once played with Revesz's young son. After winning the game, while carrying on a spirited debate with senior Revesz, Epstein turned to his young opponent and proceeded to replay the entire game from memory to point out a mistake early on that had determined the game's outcome.

Speaking at length with only cursory glances at his notes, Prof. Epstein covered an impressive array of topics while paying tribute both to Friedrich Hayek, the Austrian economist in whose honor the lecture is named, and more modern thinkers such as Malcolm Gladwell, author of the best-selling *Blink*.

The lecture, which Epstein insisted he'd just written earlier that day, used ancient Roman law as a mechanism for exploring the

effects of human psychology on legal institutions and included ruminations on everything from the proper interpretation of a prohibition on murder to the best intake procedures for cardiac patients in hospital emergency rooms.

The lecture was the first in an ongoing series sponsored by the Journal of Law & Liberty, the nation's first student-edited law journal whose mission is to critically examine classical liberal ideas. The Journal will publish an edited version of Epstein's lecture later this year.

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CRITICAL APPROACHES READING GROUP

TUESDAYS, SEPTEMBER 20 and 27; OCTOBER 11 and 18; NOVEMBER 1 and 8
6pm, Vandy 214
food will be served

What is the critical approaches reading group?

The reading group is a student-organized attempt to get together and discuss alternative approaches to the law. READ THE MATERIALS and come to discuss, argue, debate.

This semester, we are going to meet six times total in three mini-units.

Sept 20 & 27 will be "intro to critical legal studies" and will deal generally with things like critical race theory, feminist critiques of the law, etc. (Sept. 20 in Vandy 204)

***E-mail JTF254@NYU.EDU

for the readings for any particular session***

Feldman Discusses 'Divided By God'

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get what they want by having a complete ban on all public funding to religious institutions. The conservatives could have what they want by continuing the use of religious symbols in situations such as the Pledge of Allegiance.

These issues, money and symbols, Feldman explained are essentially superficial. "If we could get to a compromise on the superficial stuff, then we could move to a more honest debate on the underlying issue," Feldman said. Those underlying issues include: when life begins and ends, and with whom can you have your most intimate relationships with.

As for whether his compro-

mise will work, most critics believe that it won't. "Feldman's solution is easier said than carried out." Said E.J. Dionne in the *Post*. Dionne's criticism is where do you draw the lines. Does this mean that the government could no longer give money to a church-sponsored hospital? A student in the lecture also brought up the issue of fuzzy lines.

"All of law school is spent drawing fuzzy lines" Feldman told the 1L. "The goal of my book is to create a great social union and some fuzzy lines might be the price you have to pay for it." Feldman is more optimistic about his solution working. "My articles on the subject have been cited by several court cases, but so far only in dis-sents."

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.

Coming To America: *LL.M. finds that a sunset boat cruise of Manhattan Island exposes his literary pretensions*

By YAS GAILANI LL.M.

Her turquoise silhouette was bathed in pale white light; her accents punctured with twinkling stars; her contours horizontally framed by the incandescent strip of blue-orange-red playfully, self-indulgently, painfully skirting the horizon. The huddling masses, three and four deep from the handrail, tried in vain to capture her gaze on film for posterity, as though there would never again be presented before them such a sight of beauty in their lives. As more than 400 people gazed up in awe at the breathtaking view of the Statue of Liberty at sunset from the Hudson River, being part of the Global Law School began to acquire a whole new meaning.

For three weeks now, law school has mostly meant the 3Rs: reading, writing, and (alcohol-based) recreation. The alcohol certainly flowed last Sunday night as the 2006 L.L.M. class embarked from Chelsea Piers on a cruise around Manhattan Island. However, it was not the alcohol (or lack of it, when it comes to the SBA) that really mattered.

For the first time, I venture to claim that we felt part of a cohesive and larger whole. I don't simply mean that, as a year group, we are getting to know one another much better. That sort of observation would be trite. Nor do I mean, at least in the obvious sense, that we find ourselves identifying

much more strongly with NYU *qua* Law School.

A boat cruise is, after all, just about as far away as one can get from tax or corporations. In any case, the absence of J.D. students served to reinforce the fact that, for better or for worse, we LL.M.s are viewed both by the administration and the student body as a discrete component of the school community, with special needs, subject to special privileges, and exposed to special detriments.

Rather, what I wish to convey is that, when we looked up at Liberty bearing her torch, just as she has done for so many over the years, we realised we were New Yorkers too.

It cannot have been lost on many of us that, once upon a time, our ancestors had set sail for the New World, perilous and uncertain for the future. For them, this sight of Liberty was where they first began to believe in America, and when they began to think of themselves as Americans. Now we were sharing in that experience as well. They were immigrants; we are immigrants (albeit immigrants on short-term visas). They came here to better themselves; we too are here to better ourselves. No doubt that the poor and destitute, for weeks huddled into steerage, felt emotional and laden at Liberty's sight as they prepared to dock at Ellis Island, just as we did.



And when juxtaposed with the awesome testament to the ceaseless, remorseless power of American capitalism to accumulate money and materiel that is the Manhattan skyline, they must have felt both bewildered, and not a little scared, at the vast metropolis that was about to become their new home.

The only difference is it has taken us a month or more to catch her glimpse. Clever designation to one side, landing at Newark Liberty doesn't quite elicit the same emotional response. And now that we've finally completed our journey as it was meant to have been completed – now that our mental horizons have been properly orientated to the new environment in

which they now find themselves residing – I think we are beginning to feel truly at ease in *la grande pomme*: in some deeper and more meaningful way, it begins to make *sense* as it has not done before.

For some, studying law in New York means only that they should opine about the deficiencies of the American (as an English lawyer I insist on that qualification) common law in dulcet (or perhaps Germanic) civilian tones. But for me, that seems both distant and superficial. What matters is that we now realise that the Global Law School could not have been situated anywhere else in the world.

Appropriately enough for

the Law School that bears the city's name, it represents a microcosm of its broader environment: polyglot, outgoing, with a quiet sense of self-assurance to know that in diversity of outlook and opinion there is strength and unity of value, and that together united we represent more than the sum of our constituent parts.

No matter how difficult it can be to come to terms with at times, there now seems to be some *purpose* to the hustle and the bustle, and the endless hordes of humanity which roam the streets. Our journey of discovery has just begun, more than a month after we arrived in this buzzing, thriving metropolis, and we are now proud and privileged to think of it as home.

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It's Official: The Federalist Society Runs the World

BY CRAIG WINTERS, '07

There's something very familiar about walking into a large, mahogany-paneled room full of clean-shaven white men sporting custom-tailored blue suits. All of the men were stomping and cheering and sweaty, fired up to be in each other's company. Everyone seemed righteous in their cause and *correctness*. Despite the social and economic changes over the last fifty years, these guys were still in charge. They still ran the Big Show.

Times, for them, have never been better.

If I hadn't known otherwise, I could have been at an IBM sales force meeting in 1955. Or, going further back, Morgan Stanley's annual shareholders' meeting in 1928 (right before the Big Crash, when profits peaked). Or pick anytime on Wall Street prior to 1985.

Instead, this was last week at midtown's Cornell Club, and the gathered faithful were card-carrying members of the New York chapter of the Federalist Society.

They had gathered to root-root-root for Professor Richard Epstein in his debate showdown with a guy named Jim Tierney, who was formerly the AG of Maine (and remains a big progressive). The title of the debate was "Is Eliot Spitzer good for America?"

gram for the poor, is also their #1 Enemy. So what's the solution? They have none. The cupboard is bare. Anyway, it's not their problem.

But it is our problem. Because, scarily enough, these guys run the world. It pains me to say it, but all those sweaty, balding heads bobbing along with Epstein's practiced cadence are the investment bankers and law firm partners who pioneered for both President Bushes, and are the same group that just made Roberts our (soon-to-be) Chief Justice.

The smug, righteous devotion to their crony capitalist model is in its ascendancy. Congress is *still* talking about tax cuts in the wake of Katrina. Somehow, reducing taxes for the über-wealthy brings in *more* money (except, of course, it hasn't, but don't let the facts bog you down). In addition to Roberts' nomination, what would you guess would be the second most-coveted priority of the Federalists? It was the nomination of right-winger Rep. Christopher Cox as Chairman of the SEC (which successfully cleared the Senate).

Why the Cox nomination, rather than, say, the repeal of the estate tax? (Though they want this pretty bad as well.) Because a vocal and busy SEC hurts the money

need to steal to get rich," then I'd understand.

But he didn't. He attempted to make the convoluted argument that Spitzer is bad for markets.

As anyone who has taken Antitrust knows, bid-rigging is bad for markets. The whole idea of a free market is to remove artificial prices. I stepped up to the plate during the Q&A and pointed this out to the Professor, and, amazingly enough, he backed off. Epstein responded, however, by saying that his gripe with Spitzer was more *style* than *substance*.

Ah, now I see. You don't like your emails being made public. It's fine for the poor and for violent criminals to face the media perp walk, but not thieving corporate

It's fine for the poor and for violent criminals to face the media perp walk, but not thieving corporate executives.

executives. Right.

Federalists don't like him because he's good at his job. They don't like someone telling them that their business smells bad and steals from Main Street. They get worried when someone in the next executive office suite gets carried off the trading floor in handcuffs. "My God," they say, "that guy got

arrested for something everyone is doing!"

The Federalists live in a fantasyland where the rules apply to everyone but them. That's why Spitzer is New York's next governor. With their Achilles' heel revealed, can we capitalize on Spitzer's success to tear down their repugnant regime? Only time will tell. But I, for one, certainly hope so.

The writer may be reached at craig.winters@nyu.edu.

(Editor's Note: Although Mr. Winters has revealed the Federalist Society to be the Illuminati, he still has no idea about the secret handshakes or the secret meeting places in underground bunkers beneath Washington Square Park.)

Letters to the Editor:

Winters Wrong - Big Law Right (For Some)

To the Editor:

I found Craig Winters' op-ed "Incoming Law Students: Plan an Exit Strategy from Big Law Now" both intellectually vacant and offensive.

On the intellectually vacant point first, Mr. Winters has decided that his personal experiences and feelings are easily expanded to all of his classmates. While he found law firm life hellish, many others do not; or they accept some of the hell after a careful weighing of the costs and benefits.

Furthermore, Mr. Winters is just plain wrong about many points, most notably that most associates only realize they need to get out after 5 years at a firm. Lawyers at big law firms are not stupid, and all of them realize they will probably not become partners. The idea that people join these firms for life is laughable in today's legal market.

Never once did Winters address the reason why the vast majority of smart and talented folks who start at "big law" make that decision.

The reason is simple-- many recent grads feel that law school does not train them to walk out of graduation with the skills to make the world their oyster. The opportunities to work (albeit work *very* hard) under great practitioners on a variety of legal matters is why many folks chose to begin their careers at big law firms. Winters may be disappointed about the realities of this form of training, but that does not render it useless.

I challenge students to look at the careers of distinguished alumni brought back to this school every month for lunch with the Dean. Students will invariably notice that most started their careers at prestigious sweatshops.

The simple fact is that the exit opportunities from such firms are less limited, more lucrative, and more interesting than the exit strategies from the "fun" jobs he pushes. Also, what exactly are these "fun" legal jobs where

young lawyers won't be working their asses off for little pay? Please tell me so I can find one.

I applaud anyone who knows exactly what they want to do with their law degree and can pick a job for life but for those than don't, Winters' advice is both useless and counterproductive. Winters is simply wrong that most people who join firms do so to get rich or to stay at the firm forever.

I also found his editorial offensive. One of the things I like about NYU Law is that those that are contemplating public interest jobs can work side by side with those interested in corporate jobs.

Why does Winters feel the need to ratchet up tensions that shouldn't exist and that don't do anyone any good? Furthermore, there are many law students at many (non-top 15) law schools that would kill for the jobs that Winters so glibly dismisses. Never once does he acknowledge the privileged position from which he preaches.

Finally, as someone with experience at international organizations and the US government who has chosen to return to my big law firm, I find it deeply insulting that Winters insinuates that I am throwing my life away.

If Winters wants to give "warnings" to 1Ls, he should have done so after addressing the reasons why people like me chose to go to big law firms. I've personally told him as much on many occasions, so they cannot be a mystery to him. Hyperbolic diatribes based on personal experience are the opposite of rational legal argumentation; maybe a few years at the bottom of the totem pole would help Winters to see this.

Here's some real life advice-if you want to go to a firm, try it out for a summer, if you chose to stay, don't plan on being there for life and don't become accustomed to a lifestyle that requires you to stay too long. Also, maybe Mr. Winters should let us know what firm he worked at so that unsus-

pecting 2Ls can avoid such a deathtrap.

Jason Sanjana '06

Winters' Response

(Craig Winters asked to respond to this letter to the editor and Mr. Sanjana graciously allowed him the opportunity to respond):

Unfortunately, Mr. Sanjana missed my point entirely. First, let's tackle the "training" argument. Unless you practice M&A, the litigation training at a law firm is, I submit, not likely as broad or deep as that which can be gained as a government or non-profit employee. Working as a D.A., public defender, in civil legal services or in many of the governmental regulatory positions will amply prepare young lawyers for the variety of legal tasks they can expect to face.

On the other hand, one of the most common filings at a law firm is a "Motion to Dismiss" a securities lawsuit. How, exactly, is that a transferable skill once out of Big Law life?

Which amplifies my earlier argument: it's for the money. Your \$170k tuition bill is a monster thirst only Big Law can satiate. Law school tuition is the largest factor in career decisions, which is a shame, and I would wholly support a remedy to this insufferable situation (disclosure: I am paying sticker price for NYU).

As to Mr. Sanjana's perceived "offensiveness," I certainly don't stand for sugar-coating the choices we face. Instead of fomenting a private vs. public sector brouhaha, I merely sought to impress upon students the need to *plan for an exit*. If you're going to take the money, fine. But have a parachute. Because, despite Mr. Sanjana's rosy view of the world, many Big Law lawyers are extremely unhappy. I'm glad he doesn't count himself as one of them, but his overbroad generalization is certainly no reflection of reality.

All those sweaty, balding heads bobbing along with Epstein's practiced cadence run the world.

The Federalists heartily cheered Epstein and hissed at Tierney. How could regulation be good? How could ending bid-rigging, removing conflicts-of-interest, forcing public companies to properly report their earnings — how could these things be good? Well, according to the Federalists, Spitzer is a bad, scary man. Go become Governor, or not, just get off Wall Street's back. That was the message.

Epstein warned the crowd that if Spitzer hung around in his AG post, Wall Street would move somewhere else. Of course, NJ and Connecticut have aggressive AG's, as well, and are solid Blue states. Maybe he thought Wyoming or Utah would pony up. I'm not sure.

Perhaps most revealing, Epstein dutifully cited the Federalists' abhorrence of the minimum wage. (Federalists aren't alone here. It's standard dogma among all arch-conservatives.) That's right — the minimum wage is what's keeping America back. This belief never wavers, despite a study that was released this week that shows that the average health insurance bill for an American family now tops \$10,000 — more than a year's earnings at the federally-mandated \$5.15 an hour.

And Medicaid, which is the limited government health pro-

machine. If the Wall Street cash register takes a big hit, they'll have trouble buying their influence. And above all, these guys need thick rolls of hundreds to grease the wheels that keep them in power.

With Spitzer's time nearly up, Cox in the catbird seat at the SEC, Bush with 3+ years left as President and a Republican Congress firmly in control (sorry progressives: we're not taking the Congress back next year), there's no stopping their ambitions.

Is China a threat to the American worker? Do we need to reinvest in our infrastructure, schools and research labs to develop the next generation of technology in US? From the Federalists: Why bother? Private equity funds are making a boatload in the People's Republic. Everyone else can compete for the estimated *one million* new jobs at Wal-Mart over the next decade. (That is, as long as they don't want to join a union. That'll get you fired.)

What was so perplexing to me about the Epstein-Tierney debate was how smart people who allegedly stand on principle could cloak their hatred for Spitzer's deeds within the language of free markets. Gentlemen, it's not consistent. If Epstein & Co. had said that "we hate Spitzer because he stops us from stealing, and we

When Truth is Stranger Than Fiction: How The Federal Government Ignored Warnings About New Orleans

By MEREDITH JOHNSTON '06

Three years ago this month, the PBS program *NOW with Bill Moyers* ran a story called "The City in a Bowl." It described how the majority of New Orleans lay below sea level, surrounded by a wall of levees meant to protect it. But if one big hurricane hit the city, water would rise over the levees – the lip of the bowl – and flood the city. What was worse, after the hurricane passed, the water would be trapped in the bowl. Large portions of the city could be covered with up to 15 to 20 feet of water for weeks.

More disturbing were the descriptions of what would happen in this environment – people trapped in their homes, infectious diseases run rampant, polluted water, and the possibility that New Orleans would have to be

abandoned. One local official noted that after his county ran a hurricane simulation, they changed the name of the mock hurricane from Delaney to KYAGB – "kiss your ass goodbye."

This story wasn't based on the theory of one crack-pot scientist who made a lucky guess; all the scientists and engineers *NOW* could find agreed on what would happen. They even had solutions, albeit imperfect ones, that would at least protect the core of the city for the next 5 to 10 years.

So what happened? When there was a clear threat to a major U.S. city, why didn't the federal government take action? Turns out that the federal government had reduced spending on hurricane protection, in part due to increased funding for the "war on terror."

Many major news sources, including The New York Times, ran similar stories over the years, but I remember this story because I was working for *NOW* at the time. The producer hired a helicopter to fly over New Orleans to get aerial shots showing just how low the city lay and what areas would be flooded. Those images have stuck in my mind over the last several weeks, particularly when I saw the horrifying before and after aerial pictures of New Orleans.

Most of us were glued to our television sets in the days after Hurricane Katrina hit. And most of us experienced a similar sense of shock, of wondering how one part of America could suddenly be turned into a third world country. Perhaps most disturbing was the rapid realization

Our government can not ignore threats it deems politically troubling. Facts, not mythology, must dictate policy.

that the federal government was not doing anything to help the people in need. It is one thing for America to be knocked down; it is another for it not to be able to stand back up again.

Hurricane Katrina was not a case of a random event which no one could predict. The federal government made a deliberate choice to prioritize international

threats over domestic ones, no matter how attenuated the foreign threat might be and how real and present the domestic concerns.

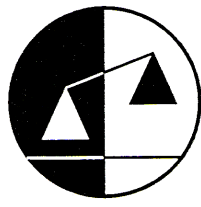
So what led this administration to choose Saddam over Katrina? The answer isn't oil; the (American) Gulf region is a major source for the production and refining of domestic oil, as well as important transportation hub. It has to do with an inability to let facts, rather than mythology, dictate policy.

Even under the best circumstances, the government could only have responded to the threat against New Orleans with half-measures. Building higher levees around the entire city would have taken too long, and creating a high wall just around the center of the city would have left many people unprotected. In addition, the government would have to recognize that the very engineering projects it had helped develop around the Mississippi Delta contributed to the sinking of the city.

By contrast, Saddam presented a familiar bogeyman with a simple solution. The story about an evil despot bent on developing weapons of mass destruction supported the idea that America is strong and enviable. Naturally, those who hate democracy would want to destroy us, and we could easily send some troops to solve the problem without straining resources at home.

I don't blame anyone for preferring the myth of a single, easily identifiable enemy to the complicated problem of environmental damage and natural disasters. But our government is supposed to protect us from all threats, and it cannot ignore those it deems politically troubling. Real leadership involves tackling hard problems.

At their best, American leaders – from FDR to LBJ – have found the myths that help mobilize great projects and made insurmountable problems seem solvable. The federal government must face facts and start addressing real threats.



Striving to Balance

NEW YORK UNIVERSITY SCHOOL OF LAW BLACK ALLIED LAW STUDENTS ASSOCIATION (BALSA) FOUNDER'S DINNER – OCTOBER 14, 2005

BALSA History & Evolution

- **1968:** Algernon Johnson Cooper, '71, establishes the Black American Law Students Association (BALSA) at New York University School of Law.
- **1983:** BALSA changes its name to reflect the growing diversity within the black community. The word "American" is taken out and, as the organization grows, the word "National" is added as a symbol of its nationwide presence. The NYU chapter chooses to retain the name BALSA.
- **2005:** With over 200 chapters at law schools across the nation, the National Black Law Students Association (NBLSA) is the largest student-run organization in the country. The "A" in NYU's BALSA stands for "Allied" as a symbol of unity.

The Founder's Dinner

Today, with the arrival of the Class of 2008, BALSA approaches 40 years of leadership and community. The Founder's Dinner will not only commemorate the organization's genesis, but also celebrate the community of students, faculty, alumni, and supporters that continue to contribute to BALSA's present and future. Attendees and supporters are invited to reaffirm their commitment to diversity at New York University and in the legal profession.

The Founder's Dinner will feature remarks from BALSA's founder Algernon Johnson Cooper (NYU Law '71) and prominent alumni who will share their reflections on BALSA and its role in their professional and personal development.

Sponsorship Information

The Founder's dinner is proudly sponsored by the following law firms:

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McKee Nelson LLP	Strook, Strook, & Lavan LLP Cadwalader, Wickersham & Taft LLP
Silver	Bronze
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Includes both confirmed and invited speakers, program subject to change

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For **Your** Opinion

Send it to
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New Franz Ferdinand Record Is Totally Great

BY BRIGHAM BARNES '06

Franz Ferdinand hit it big in the spring of 2004 in a way that you'd expect would lead to a burn-out and disappearance: sold-out shows in small venues in New York City coupled with insane buzz, leading to major label debut album in America. The self-titled record was solid enough to warrant the hype that surrounded the band and spawned several hits—such as the inescapable “Take Me Out”.

The general public's acceptance of the band was enough to make Franz Ferdinand's early adopters rethink their position on the band, but soon this Glaswegian quartet was selling out shows in some of New York's largest venues and around the country.

But come on, do we really expect that the artsy danceable rock band that rose above all other artsy danceable rock bands in 2004 to be able to repeat or match their initial success with the release of their second album, “You Could Have It So Much Better”? Aren't we all expected to eventually say, “Hey, remember Franz Ferdinand? Whatever happened to those guys, anyway?”

Well, I've got some bad news for those that expect the band to fade into obscurity: “You Could Have It So Much Better,” slated for release on October 4th, isn't as good as the band's first record, it's actually so, so much better. So much better, in fact, that the band has recommended you throw out your copies of their first record and only listen to this one. While I'll make no similar recommendations,

I am still amazed at how good this record is.

“You Could Have It So Much Better” kicks off with “The Fallen,” a rather sinister and nearly straight-forward rock pre-

amble to the rather sinister dance-rock that is about to follow. The next track, “Do You Want To,” is the album's first single, and is the song closest to the spirit of “Take Me Out” and other hits off the first

record—not that there's anything wrong with that. “Do You Want To” is followed by the irresistibly danceable “This Boy.”

In my first listening of “You Could Have It So Much Better” it

was at this point, when I realized that the album's first three songs were totally great, that I began to wonder if the whole album would be great. After the next two songs, the slightly Pulp-like “I'm Your Villain” and the magnificently menacing “Evil and a Heathen,” I began to believe that “You Could Have It So Much Better” might just be (dare I even say it?) a near perfect record.

I can't believe I just suggested that “You Could Have It So Much Better” is nearly perfect, but it's pretty much the only record I've listened to for the past week, and it's still growing on me.

I'll spare you nine more instances of me saying “And the next song was (name of song) and it is really good and sounds a little bit like (this other Franz Ferdinand song or this other band),” but it's worth noting that the record features a couple of surprisingly gentle near-ballads. Both “Eleanor Put Your Boots On” and “Fade Together,” two tracks found near the end of the album, are unlike anything found on the band's first record.

Fortunately, the record doesn't end on a completely gentle note as two of the final songs, “You Could It So Much Better” and “Outsiders” bring the record back up to breakneck speed. It's Franz Ferdinand's expansion into a more varied style, along with their continued effort to perfect the infectious rock that has been their trademark, that makes it look like this band named after the dead archduke won't fade into obscurity after 2004.



Unemployment Action Center Fall Training

Sunday September 25

Noon to 4pm

Vanderbilt 214

Lunch provided

Questions? Contact Dan Hennefeld, Training Coordinator, dmh331@nyu.edu

The Unemployment Action Center is a student-run organization that represents workers seeking unemployment insurance at the NY Department of Labor. UAC's makeup training for new student advocates on Sept. 25 will prepare students with the knowledge they need to begin taking cases – students can gain experience with real legal advocacy, while providing needed assistance to workers.

1L Survival Guide: Village Essentials

COFFEE

J&B Coffee Shop

(123 W 3rd b/w MacDougal & 6th Ave)

The law school coffee shop: good low fat muffins, nice vanilla lattes and best of all personal service from the sweet guy who's ALWAYS there.

The Grey Dog's Coffee

(33 Carmine b/w Bleecker & Bedford)

The ubercafe, beloved by many a student and canine (and Monica Lewinsky is purported to be a regular); amazing sandwiches.

Dean & Deluca

(University Place at 11th St; also Broadway at Spring)

Beautiful, light-filled space with outlets; smoke-free; fairly quiet; great music; high-end baked goods, coffee, salads and sandwiches.

Patisserie Claude

(187 W 4th b/w 6th & 7th Ave)

Perfect pastries and lattes; tiny, tiny place; no outlets; sparse yet charming; closes at 8pm.

Esperanto Cafe

(114 MacDougal b/w W 3rd & Bleecker)

Solid food/beverage choice; packed with the student/village crowd; can be very smoky; open 24 hours.



Il Corallo Trattoria (176 Prince b/w Thompson & Sullivan): Charming Italian in Soho with affordable lunch specials.

Porto Rico Importing Co.

(201 Bleecker b/w 6th Ave & MacDougal)

Widely known as the best coffee in the city; take away and bean sales only; slow service, but worth it.

Starbucks

(Astor Place; 6th Ave at 8th St; B'way near W 3rd; 7th Ave at Sheridan Sq; Greenwich west of 7th Ave; various other locations) The ubiquitous coffee shop; reminds us suburban kids of home; plug-ins at Astor Place.

Barnes and Noble

(Union Square North; also Astor Place; 6th Ave b/w W 8th & Waverly)

Flagship location sports a large cafe on the 4th floor with views of the park; sunny and study-friendly; regular readings with interesting authors.

BREAKFAST

Bagels on the Square

(7 Carmine at 6th Ave)

Consistently good; hot and fresh bagels and a choice of tasty spreads.



West 3rd Street hosts many law school favorites, like **Negril Village**, featuring Caribbean cuisine and a live music lounge.

Washington Square Diner

(150 W 4th at 6th Ave)

Good, cheap and fast, though greasy at times; frequented by Sexton and other NYU glitterati; open 24 hours.

Waverly Restaurant

(385 6th Ave at Waverly)

Similar to Washington Square but with a hip model crowd; very smoky.

Golding Lounge

(2nd Floor of Vanderbilt Hall)

The closest you can get; excellent yogurt-fruit mixers to keep you energized all day; may want to avoid the coffee.

LUNCH

Peanut Butter & Co.

(240 Sullivan b/w W 3rd & Bleecker)

Cool menu, fun atmosphere, and coupons available; not the cheapest PB&J sandwich.

The Emerald Planet

(2 Great Jones, just east of B'way)

Excellent smoothies and wraps; healthy vegetarian choices; frequent specials and other coupons; worth the 10 minute walk; NYU students get a 10% discount.

Harry's Burrito

(76 W 3rd at Thompson)

Extensive menu; great burritos; fun student crowd.

Mamoun's Falafel

(119 MacDougal, south of W 3rd)

The definite middle eastern eatery; cheap, fresh falafels; the lines move quickly, GO!

Fuji

(Sullivan b/w W 3rd & Bleecker)

Great cheap lunch sushi - try the eel over rice for less than \$4; they'll even make specific orders for you.

Dojo's

(14 W 4th b/w B'way & Mercer)

Large portions; cheap, healthy menu; can be packed and the service inconsistent, but what can you expect at those prices?

Pepe Rosso

(149 Sullivan b/w Houston & Prince)

Can't get better pasta for the money; excellent salads as well; cute place with a few outdoor tables, but not much room inside.

DINNER

Volare

(147 W 4th b/w MacD & 6th Ave)

A favorite local Italian place; the real deal -- Tony Soprano would go ... fuhgeddabowdit!

Thai Village

(133 W 3rd b/w MacD & 6th Ave)

Cozy Thai restaurant with standard fare; can be romantic at times; delivery available.

Tomoe Sushi

(172 Thompson b/w Bleecker & Houston)

One of the city's best sushi houses; remarkably affordable; totally jam-packed all the time; go early (5pm) and wait, or sneak in for lunch.

Raffetto's

(Houston b/w MacDougal & Sullivan)

Homemade pasta and sauces, fresh meats and cheeses; delicious and inexpensive, it's the perfect place to shop for a pasta lover on a budget; cash only.

BB Sandwich Bar

(120 W 3rd b/w MacD. & 6th Ave)

They only serve cheesesteaks, so order by the number that you want; not authentic, but still good; the hour-long lines have gone but they're still only \$4 a pop.

Jamaican Flavors

(240 Sullivan b/w W 3rd & Bleecker)

Best place for fresh Jamaican patties with lots of different fillings (including vegetarian); also have other Caribbean cuisine; don't forget the coco-bread.

Suzie's Restaurant

(163 Bleecker b/w Sullivan & Thompson)

A veritable NYU institution, the lunch hour is packed with students eating on the cheap (the lunch specials are all about \$5); quick service; classic ambiance.

Thompson Street Deli

(Thompson corner of W.3rd)

Good choice for a close-by deli; standard sandwich fare.



Cones (272 Bleecker b/w Morton and Jones): Argentinian gelato that's perfect for the final days of summer.

BARS

Barrow Street Ale House

(15 Barrow b/w W 4th & 7th Ave)

Only slightly off the beaten path, but well worth the walk; a big room, a young crowd and a good place to watch Duke lose in the semi-finals.

Red Lion

(151 Bleecker at Thompson)

Always features an array of interesting musicians; plays host to many an SBA event.

Down the Hatch

(179 W 4th b/w 6th & 7th Ave)

This dive is where you want to be on a late Saturday night; good specials, loud music, foosball and a fun crowd.

The Stoned Crow

(85 Washington Place b/w MacD & 6th Ave)

This dark smoky pub is often crowded with folks admiring the many posters decorating the place; two pool tables in the back.



John's of Bleecker (278 Bleecker b/w Jones and Morton): Voted #1 Pizza for 2004 on Citysearch, this is a Village institution.

Meskarem

(124 MacD b/w W 3rd & Bleecker)

Great Ethiopian food; don't expect cheap prices because it's in the basement; as family-style as you can get.

The Bowery Bar

(Bowery at W 4th)

The outdoor patio is a perfect summer spot, attracting the chill-out crowd; the DJ inside keeps you moving; slightly pricey.

Madame X

(94 W Houston b/w Thompson & LaGuardia)

A Village bar with attitude: red lights, cool music and a velvet lounge make this bar a hot location for any night out.

Peculier Pub

(145 Bleecker at LaGuardia)

One of the longest beer lists in the Village; excellent jukebox selection; lots of tables available, so it's a great place to chat with friends.

Off the Wagon

(109 MacDougal b/w Bleecker and W 3rd)

One of the best places in the neighborhood to watch sports; wide variety of drink and food specials.

1849

(183 Bleecker at MacDougal)

DJ and pool tables upstairs, large screen TVs downstairs; ladies night on Thursday draws a big NYU crowd.

New Flags, New Season, Same Fire: SLAP Flag Football Underway

BY CONOR FRENCH '06

By two o'clock, nearly one hundred law students lined the fields at East River Park. Some knelt stretching, some ran crisp pass routes, and some talked through extensive game plans. All, however, were there to participate in New York University School of Law's finest fall pastime – SLAP flag football. All were there to commemorate glorious Fridays of leisure and the overall pleasantness of another north-eastern autumn.

Beneath the bridge elevating the FDR parkway and around the baseball diamond's backstop, you could hear the rising din – 2Ls and 3Ls bragging loudly about triumphs of years past melded with newly acquainted 1Ls engaged in awkward get-to-know-you/why-did-I-possibly-agree-to-play-on-my-lawyering-section-team-because-I-have-hands-like-feet conversations. On the field, referees and SLAP organizers patrolled the sidelines, ensuring that each cone was evenly spaced apart and that each team had arrived.

This season, SLAP stuck with the bifurcated full contact (formerly men's) and less contact (formerly coed) league structure. Profiting from unprecedented schoolwide interest and involvement, the less contact league boasts sixteen teams, including three 3L teams, each of which has landed themselves in the playoffs two years running. Defending champion, Bukola's Team, returns all its starters from a season ago.

On the full contact side, two-time almost-champs, Big Dicta, embark upon their third and final run at immortality while last season's revelation, Minimum Contacts, look to spoil their party.

Perhaps the greatest revolution of the new season lies in the equipment. In use now are fancy flags which only require that the defender strip the ball carrier of his entire belt rather than detach the individual flag from the belt, making it easier to remove the flag. Early reports suggest that this new development encourages an aerial attack as it enables superior run defense.

Personally, my only observation vis-à-vis the new flags was that it facilitated blind waist grabbing that left my shorts torn from waist to knee on both legs (yes, I did finish the game and yes, it did look very racy and legit).

Several plays into the young season, nerves have already subsided. Jitters are gone. Bodies twist and crash back and forth and clarity and focus suddenly supplant the mental sluggishness of the morning's hangover. The hot summer sun makes people's flushed red faces even redder.

Amidst the crush of sweat-soaked and grimacing law students, what is clear is that another long-awaited Friday at East River Park has finally arrived, as has the dawn of another thrilling flag football season, and the only place to be is there, intense, red-faced, and ready to play. Go get 'em, young lawyers, go get 'em.

Week 1 Results

FULL CONTACT LEAGUE

Malicious Prostitution: 12, The Wobblies: 0
 People's Army: 12, Tim Meyer's Team: 6 (OT)
 Dirty Briefs vs. Gans & Co. [To be rescheduled]
 Minimum Contacts and Pro Boner had byes

LIGHT CONTACT LEAGUE

Solicitors
 Just the Tip: 18, Barely Legal: 6
 Learned Hand Job: 24, Mike's Team: 6
 Title IX: 16, Deep Impact: 0
 Pass/Fail (formerly The Oscars): 26, NC17: 0

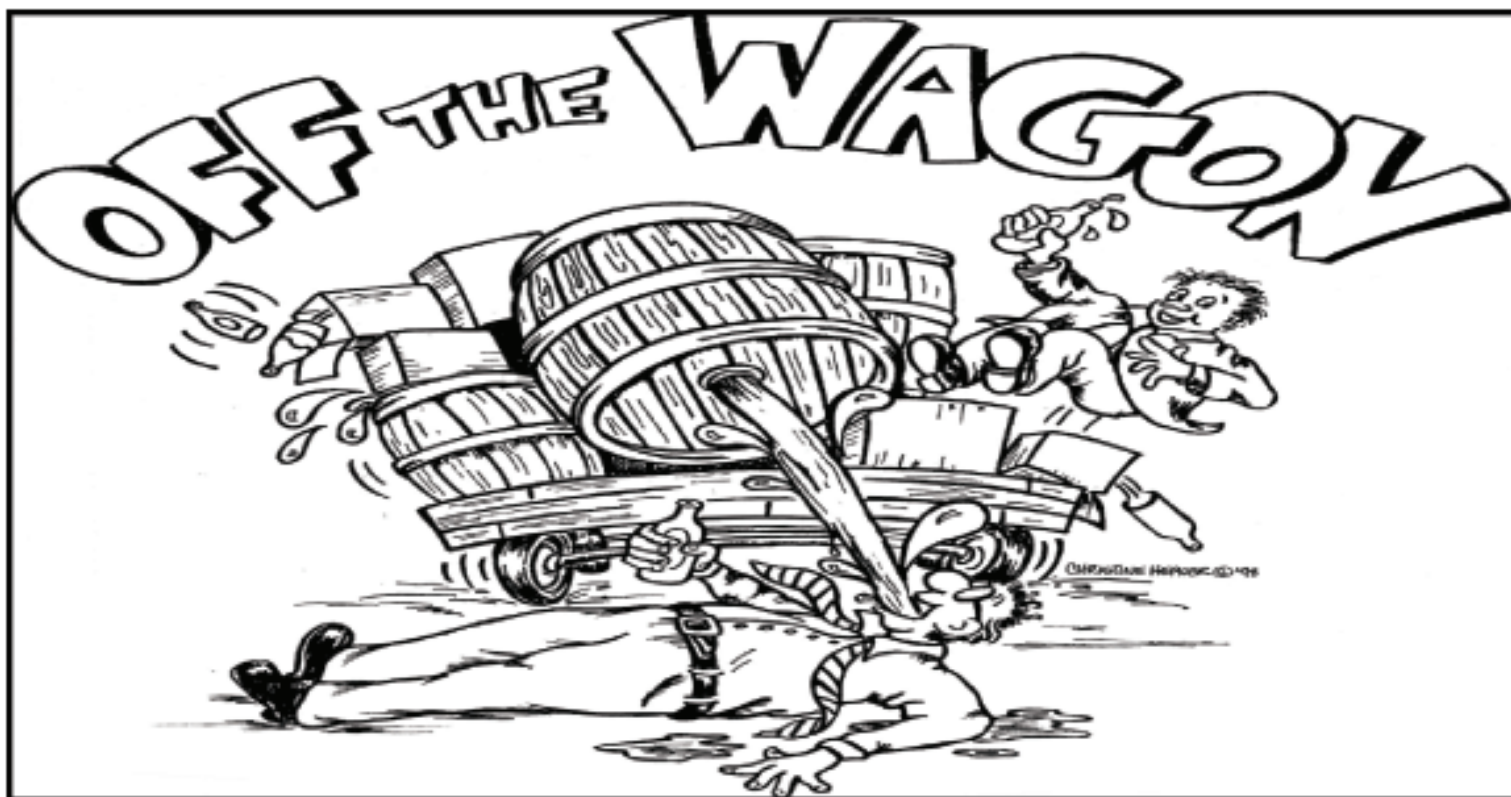
Barristers

Gans & Co: 14, Agency?: 12
 The Reasonable LC FF Team: 16, Rodeo Clowns: 7
 Bukola's Team: 12, Battery Chargers: 6
 Little Lebowski's Urban Achievers vs. Auditors
 [To be rescheduled]

Week 2 Schedule: Friday, September 23

	FULL CONTACT	LIGHT CONTACT	
		<i>Barristers</i>	<i>Solicitors</i>
2pm	Malicious Prostitution v. Pro Boner	LLUA v. Battery Chargers	Learned Hand Job v. Just the Tip
3pm	Tim Meyer's Team v. Gans & Co.	Bukola's Team v. Auditors	NC17 v. Mike's Team
4pm	The Wobblies v. Minimum Contacts	Agency? v. Reasonable	Barely Legal v. Title IX
5pm		Rodeo Clowns v. Gans & Co.	Pass/Fail v. Deep Impact

All games are played at East River Park, located at Houston and FDR Drive. Spectators are welcome.



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