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## Talking Tough: In the Federalist Society, A Conservative Alternative

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*Talking Tough*

# In the Federalist Society, A Conservative Alternative

**M**embers of the Federalist Society at UB Law School have no problem with talking tough. In person and in their publication, *The Federalist Papers*, they're taking on social issues from a conservative viewpoint — and providing a real philosophical alternative in the Law School community.

*The Federalist Papers* — the group published eight issues during the academic year just completed — have become known for mixing provocative discourse with conservative arguments on today's thorniest issues. Some excerpts from this year's issues:

On the Bill of Rights: "The Rehnquist court, whatever your view of it, is not likely to find new fundamental rights emanating from the penumbra created by the first 10 amendments. In this era of judicial restraint we need to concentrate on the protection of what fundamental rights we do have. ... The right to freely express oneself is a right so fundamental, so central, to our system that it simply cannot be 'tempered.'"

On abortion: "Does it really make sense to say that at X days, the fetus is fair game, but at X+1 days it has constitutional rights? It is simply not logical to condition the definition of human upon the extent of medical technology."

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David I. Steinberg  
'91, left, and  
James A. Sacco '91.



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On affirmative action: "To develop and utilize the minority work force, we must focus on educating minorities at the early stages so they can effectively compete for college positions and jobs. Affirmative action policies put minorities in positions where they are less qualified than their peers. This causes many minorities to fail in their goals (and) creates the illusion that minorities are not as good as their peers. ... These results work to hinder the advancement of minorities in the work force."



David I. Steinberg '91, who recently served as chair of the group, says the Federalists stand for two principles. They are: individual liberty, including political liberty and the economic liberties of lesser taxation, employers' rights and the enforcement of contracts; and federalism, the defense of states' constitutional rights against the expanding power of the federal government.

Says James A. Sacco '91, former vice chair of the group: "The power is just incredible, and of course where there's power there's the chance for tyranny. I think that has happened, to some extent."

On the national scene these conservative ideas have made strong inroads during the Reagan and Bush presidencies. For instance, the idea of judicial restraint — the assertion that judges should simply interpret the law, not make it — was a major issue in the Senate confirmation hearings of Supreme Court justices Antonin Scalia and David Souter. Says Sacco: "The principles we espouse we feel are crucial to society."

And at UB, the Federalist Society has grown apace. Begun in 1985, the group had dwindled to four members when Steinberg and Sacco came to Buffalo in the fall of 1988. Now the group has 20 members and a new chairman-elect, second-year student Karl Czymbek. It operates out of a small office space in O'Brian Hall, decorated with an American flag hanging on the wall and a color portrait of Housing and Urban Development Secretary Jack Kemp on the desk. Ironically, the Federalists share a telephone line with the National Lawyers Guild, a group whose views often differ sharply from those of the Federalists.

"Right now we're enjoying unprecedented success," Steinberg says.

The group sponsored four debates during the 1990-91 academic year. Their topics:

- The United Auto Workers vs. Johnson Controls case, contesting whether women of childbearing age could be banned from jobs working with hazardous substances. Law Professor Lucinda M. Finley and attorney Lincoln Oliphant were the debaters; law Professor Wade J. Newhouse moderated the forum. A standing-room-only audience of nearly 100 people attended.

- The constitutionality of the death penalty. The debaters were Professor Muhammad I. Kenyatta of the Law School and Professor Richard Cox of UB's political science department, moderated by Dean David B. Filvaroff. "It was just a pleasure listening to it," says Steinberg, who called the debate "probably our most successful." He said the presentation was followed by a full hour of question-and-answer discussion.

- "Is It Too Easy to Sue?" Walter Olson of the Manhattan Institute debated law Professor Robert S. Berger. Dean Filvaroff again moderated.

- "Should a battered woman be exonerated for premeditated murder?" Tom Jipping, founder of the Federalist Society at UB and now a member of the Free Congress, a conservative think tank, debated law Professor Charles P. Ewing; Steinberg moderated the debate.

In addition, four members of UB's Federalist Society made the trip to Yale University early in March for a national Federalist symposium on the Bill of Rights, featuring former Attorney General Edwin Meese.

"We always welcome left-wing views," Steinberg says. "It's a way of sharpening our own views and promoting intellectual exchanges, which is what law school should be all about." ■