The Floersheimer Center for Constitutional Democracy

THE DOMESTIC COMMANDER IN CHIEF

MONDAY, APRIL 16, 2007

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THE DOMESTIC COMMANDER IN CHIEF

What authority does the President’s role as the Commander in Chief of the armed forces grant him to act in the domestic arena? By most accounts, the Commander-in-Chief Clause vests the President with broad power over the military and its conduct within a “theater of war.” But when that theater overlaps with much of domestic life, the President’s war power runs headlong into Congress’s regulatory authority as well as constitutional protections for individual rights.

This clash of constitutional principles has surfaced repeatedly in the American response to the 9/11 terrorist attacks. President Bush has invoked his authority as Commander in Chief as a basis for detention of American citizens captured on domestic soil, a program for eavesdropping on communications from domestic sources, the establishment of military commissions in Guantanamo, and decisions to classify information. In view of the persistence of the invocation of the Commander-in-Chief Clause, the scope, impact, and dynamics of this source of the President’s constitutional power merits sustained treatment. This conference will bring together leading constitutional scholars and historians to discuss the proper scope of the President’s domestic Commander-in-Chief authority.

Floersheimer Center for Constitutional Democracy

The Floersheimer Center for Constitutional Democracy was established in 2000 through a generous gift from Dr. Stephen Floersheimer. Its goal is to better understand, and to assist in improving, the functioning of constitutional democracies, both at home and abroad. The Center supports research by scholars and policymakers, hosts speakers and conferences, issues publications, and provides financial support for visiting scholars as well as student projects. Topics of particular concern include civil liberties in an age of terrorism, the structures of democratic government, and the relationship between church and state. For more information on the Floersheimer Center for Constitutional Democracy, please visit www.cardozo.yu.edu/floersh/index.asp.
MONDAY, APRIL 16, 2007

8:45 am Registration, Coffee

9:15 am Introduction
Vice Dean Michael Herz, Cardozo School of Law

9:30 am The Commander in Chief in Historical Perspective
Prof. Michael Les Benedict, Ohio State University, History Dep’t
Prof. Beth Hillman, Rutgers School of Law–Camden
Prof. Martin Lederman, Georgetown University Law Center

Commentary
Prof. Martin Flaherty, Fordham University School of Law

11:30 am Secrecy and the Commander-in-Chief Power
Louis Fisher, Congressional Research Service
Prof. Heidi Kitrosser, University of Minnesota Law School

Commentary
Prof. Kevin Stack, Cardozo School of Law

1:00 pm Lunch

2:15 pm The Commander in Chief, Congressional Control, and Judicial Review
Prof. David Franklin, DePaul University College of Law
Prof. Saikrishna Prakash, University of San Diego School of Law
Prof. Stephen Vladeck, University of Miami School of Law

Commentary
Prof. Harold Bruff, University of Colorado School of Law
Prof. Burt Neuborne, New York University School of Law

4:30 pm Concluding Remarks

5:00 pm Reception

The conference is free and open to the public, but registration is required. Please register by returning the form below or e-mail floersheimer@yu.edu. For more information, e-mail or call (212) 790-0200 ext. 6700.

Name _________________________________________________________________

Title/Affiliation __________________________________________________________

Address __________________________________________________________________

Telephone ______________________ E-mail ________________________________