

University of San Diego

Digital USD

---

Newspaper, Motions (1987-2019)

Law Student Publications

---

4-19-1988

## Motions 1988 volume 1 number 5

University of San Diego School of Law Student Bar Association

Follow this and additional works at: <https://digital.sandiego.edu/motions>



Part of the [Law Commons](#)

---

### Digital USD Citation

University of San Diego School of Law Student Bar Association, "Motions 1988 volume 1 number 5" (1988). *Newspaper, Motions (1987-2019)*. 5.

<https://digital.sandiego.edu/motions/5>

This Book is brought to you for free and open access by the Law Student Publications at Digital USD. It has been accepted for inclusion in Newspaper, Motions (1987-2019) by an authorized administrator of Digital USD. For more information, please contact [digital@sandiego.edu](mailto:digital@sandiego.edu).



# Motions

Krantz  
leaves USD ...  
Page 4



Volume 1, Number 5

## D.C. Judge Mikva visits USD for Nathanson Memorial Lecture series

by Misty Coldwell

Nathaniel Nathanson, who died five years ago, could not have dreamed of the success of the Memorial Lecture Series presented in his honor. On Thursday, March 17, USD law school hosted this year's speaker in the four-year series, the Honorable Abner J. Mikva, of the Court of Appeals for the D.C. Circuit.

Mikva considers Nathanson one of his heroes and praised his resistance to investigations by the House Un-American Activities Committee (HUAC). At a time when it was dangerous to do so, Nathanson publicly condemned HUAC's violations of witnesses' constitutional rights during "Red Scare" investigations.

Nathanson's role as a professor at Northwestern University School of Law (1936-77) gave him the opportunity to help students achieve the same high moral standards. From 1977 until his death in 1983, Nathanson spent alternate semesters teaching at Northwestern as professor emeritus and at USD where he was named Distinguished Professor of Law.

His colleague and friend at USD, Kenneth Culp Davis, praised Nathanson's teaching methods as a standard for legal instruction. Davis recalled that some students dubbed his classes "The Mystery Hour" but added that Nathanson was right to maintain his high level of teaching. Eventually, Davis believed, the students would rise to the challenge.

Davis also praised Judge Mikva for his

adherence to ideals. Before introducing Mikva, Davis sketched the Judge's impressive biography.

After graduating from University of Chicago in 1951, he clerked for Supreme Court Justice Sherman Minton for a year before practicing law in Chicago. Mikva served 16 years in the Illinois General Assembly as well as the U.S. House of Representatives before his appointment to the D.C. Court of Appeals in 1979. Additionally, he has been adjunct professor at Northwestern University, University of Pennsylvania and Georgetown University.

This diverse background has given Mikva an unusual experience in the relationship between the academic, legislative, and judicial spheres. His lecture "The Rise and Fall of Un-Americanism" reflects his understanding of the roles he has filled. Focusing on HUAC investigations, Mikva traced the history of the committee from its inception in 1938 to its abolition in 1975.

No one was immune from HUAC's long reach. The committee was originally formed to investigate Nazi and other fascist threats of "force or violence to attack the American form of government as guaranteed by the Constitution." Mikva pointed out the value of this narrowly defined goal, although he questions the propriety of the legislative branch performing this law enforcement role. This goal was short-lived, however.

D.C. Court of Appeals Judge Abner Mikva knows the legislative point of view well after spending 16 years as an Illinois legislator.



photo by Ken Jacques

After World War II, the committee turned to investigating communist organizations, reaching into the private lives of many people. Often these individuals were called upon to testify against their colleagues or be subject to accusations. Mikva explained another dilemma faced by witnesses called before the committee.

If witnesses wished to preserve the Fifth Amendment right against self incrimination, they were told "that only HUAC would decide" what rights they had. The only way to invoke the Fifth Amendment was to refuse to answer any questions whatsoever.

"Members of HUAC publicly stated that to plead the Fifth Amendment was seen as an admission of guilt," Mikva explained.

Committee Chair Martin Dies was proud of his underhanded tactics in his battle, and the public generally gave its support during the 1940s and 1950s. The FBI also backed the investigations and armed HUAC with files on its opponents.

Senator Joe McCarthy's hearings in the early 1950's took on the zeal of the HUAC investigations without any of its minimal restraints.

Mikva reflected on McCarthy's trumped-up charges of rampant communism in the State Department as well as against several army generals. Public support of McCarthy faltered, and HUAC, once again, became the principle investigator of "un-Americans." Throughout the 1960's, the committee's importance waned, until in 1975 the House of Representatives finally voted to abolish what was then called the House Committee on Internal Security. The files were transferred to the Judiciary Committee to be sealed in the National Archives for 50 years.

Throughout the lecture, Mikva punctuated his history of un-Americanism with pleasant humor and anecdotes. He related a story about his own confirmation hearings before the Judiciary Com-

(Continued on page 11)

## Fall '88 applications up 50%

by David Olan

An increase of 50% in applications for next year's entering class raises questions about how to deal with admissions procedures. Dean Sheldon Krantz said, "the increase in applications will not have any impact on the size of the entering class which will be at 240; the impact should be that the quality will be at a very high level, possibly the highest in recent years."

In terms of LSAT scores and grade point average, the numbers will be higher, but the inquiry does not stop there. The entire application is looked at to make sure there will be a diverse student body.

With over 3,000 applications, Krantz indicated that USD would be accepting a lower percentage than it ever has. Recently, most of the students who were accepted to the school of law enrolled. This year USD can afford to be even more selective in accepting applications for the next entering class.

Many factors besides the beautiful weather contribute to USD's increased attractiveness. "Our law school is increasingly recognized nationally as an excellent law school and getting better," stated Krantz. "The job market for USD students, which is increasing all the time, has been evidenced by the fact that this year up to 200 employers came to interview our students. That figure was about 25 in 1981. There is a growing recognition that our students are equal to any students in the country."

While there is no official ranking, Krantz said it is fair to say we are in the upper third of law schools in the country,

which is remarkable given the fact that we are a very young school and we are quickly moving to the upper fourth. The fact that San Diego is such a nice city and expanding rapidly "does not hurt us at all," according to the Dean.

With respect to this year's class, there was a major increase in the number of applicants who decided to enroll upon acceptance last year. The no show rate of students who accepted but don't enroll dropped without notice from 20% to 3% in 1987 causing the unusually large class. With that unpredicted change in the accept-to-enroll ratio, Admissions will be keeping a sharp eye on this year's number of acceptances.

Also, there are proposals by a special faculty committee to improve the standards of the existing students, one of which is to increase the passing GPA to 76. Krantz agreed that it would be appropriate for the law school to strengthen its standards.

In addition, the recruitment team which is run by Kelly Salt, Assistant Dean of Student Affairs, and the admissions office has done a very good job of letting potential applicants know about the school. The informational seminars held in February each year have had a positive effect on the school's reputation. This February almost 600 prospective students came to the seminar.

So far, some students have been accepted and others are still waiting. The law school's improved recognition should prove to help those students attending find good jobs almost anywhere in the nation.

## Fundraising supported by local firms, 'buy-a-carrel'

At the March 26 Annual Law Alumni Association Dinner Dance, Gray, Cary, Ames & Frye managing partner Josiah L. Neeper, who is heading the fundraising efforts for the Legal Research Center announced several recent gifts to the assembled crowd. In the past month, two major San Diego law firms have made pledges to the project. Luce, Forward, Hamilton & Scripps and Hinchy, Witte, Wood, Anderson & Hodges have both pledged \$25,000 to the effort.

Dean Krantz expressed gratification at the response from these two firms, stating, "These two gifts make an important statement to the San Diego legal community about the value of this facility and this institution to the area. We have good reason to believe that a significant number of other firms will join these two in support of the Legal Research Center."

The general fundraising campaign will begin shortly. Two gifts which will match donations have also recently been received. The James Irvine Foundation has announced a \$750,000 grant which

will match one-for-one gifts and pledges made to the project from individuals (this could include law student participation as well), and a member of the Class of 1977 has made a challenge gift of \$25,000 to her classmates, also a one-to-one match.

The accompanying article by law librarian Nancy Carter details the study carrels which will populate the new library. Part of the fundraising campaign will be the opportunity for donors to have their names engraved on a plaque on an individual study carrel. The cost of such recognition will be a pledge of \$3,500, payable over a three year period. Anyone interested should contact Libby Schiff, Director of Development for the Law School at 260-4569 or Alumni Director Barbara Mendelson at 260-4692.

Students can assist with this effort in several ways, and earn money while doing so. Respond to the ad elsewhere in this issue of Motions or contact Catherine Murry at ext. 4268.

### Motions

USD Law School, Alcalá Park, San Diego, CA 92110

Non-Profit Org.  
U.S. Postage  
PAID  
San Diego, CA  
Permit No. 3655



# Dicta

## Undergrad editor denied constitutional amendment rights by AS president

by Starr Lee  
Editor

As a first-year law student, there are many interpretations of the Constitution that I have not yet learned. But as an experienced journalist with a degree in journalism, I do know the parameters set by the 1st Amendment for freedom of the press and free speech. Kevin Rapp, Associated Students president of the undergraduates at USD, feels that "no one believes more in the 1st Amendment" than he, but he must have slept through that part of the Constitution's reading.

On March 10 Rapp fired Monica Sanchez as editor of the *Vista* (the undergraduate newspaper) because of a story she had written on the College of Arts and Sciences Dean Search committee. Students on the committee had voluntarily told Sanchez their opinions of several of the candidates, and, big surprise, she printed it.

Two journalism professionals, USD Professor Bill Evans, who is also an editor for *The San Diego Union*, and John Nunes, director of the USD News Bureau, told Rapp that Sanchez did nothing wrong by journalistic ethical or legal standards. She did not lie, mislead or eavesdrop on the sources to get the information; the people she talked to knew she was editor of the paper. It was probably a judgement error to print the information, because of the subject's sensitivity to USD. But it was not unethical.

According to Rapp, it's Sanchez's fault that the reputation and credibility of the AS was damaged by the story, particularly by the comments on the candidates. But isn't it really the committee members who abused the trust of the committee and openly talked about the candidates to the newspaper editor, when they knew that the information was confidential? Let's pretend this is the real world, and give "credit" where credit is due.

A newspaper's job is to inform its audience of all the news—not just the news favorable to an organization. The *Vista* is not supposed to be a mouthpiece for Rapp; he is not publisher or editorial policy-maker for the *Vista*, only president of the students. Sanchez was chosen by a committee of *Vista* staff members and AS senators to be editor of the newspaper, not to be Rapp's assistant and head of his public information department. He may have the right to fire her for dereliction of duties but not for editorial content just because it's controversial. No, that's called censorship in most people's books (except for Rapp, a believer in a free press.)

And even if Rapp felt that he had justification for calling Sanchez on the carpet, firing her was not necessary. She printed retractions and apologized for the judgement error to make amends for the outcry, even though her wrong was only to reveal committee members' lack of discretion.

The *Vista* provides a great service to the students by publicizing USD events, people and student activities. But it is also a newspaper learning lab with minimal faculty supervision, run by students who are learning to be journalists and have taken only a few classes in communications. A mistake once in a while is natural and should be forgivable, especially when the mistake was from inexperience and not illegal or unethical.

Ever heard of the 14th Amendment and the right to a fair hearing? Sanchez's hearing was a figment of anyone's imagination. Rapp and the Executive Committee, consisting of the student representatives, met the night before the full Senate hearing to decide their recommendation. Rapp was the only witness and accuser. With his "investigations" and "evidence" against Sanchez and his testimony of what he decided were a journalist's ethical and legal standards, the committee voted to recommend dismissal.

The next day, before the hearing with all of the senate members, Rapp told Sanchez she was fired. At the hearing, Rapp acted as if testimony from Sanchez and the people speaking in her defense (including three professional journalists and most of her staff) was just a formality and that the recommendation was fait accompli. And it was.

There was no non-partisan introduction of the issues by Rapp. In fact, many of Rapp's accusations were not of illegality, or ethical breach. He just didn't think the story was fair. According to Rapp, a reporter has to tell a source, "You are being interviewed," before the information can be printed. Now, it may not be nice sometimes and it may not be fair, but in the real world journalists do not have to serve notice that "I'm taking notes" to gather printable information.

Rapp dismissed the Editor "not because of the content of the article and not because of disapproval from students, faculty and administration. But rather her dismissal was because of the way in which the article was put together. It showed that the Editor is incapable of knowing when an individual can be quoted and her incapability of keeping these sources

confidential. But most importantly it appears that the Editor knew but ignored the implications of the article."

Some of the senators seemed to have voted with these unproven and unfounded accusations from their peer echoing in their minds. There were people on Sanchez's side with a lot more experience and knowledge about journalistic ethics and the 1st Amendment freedom of the press than Rapp but they got to speak only "after the fact" of the committee hearing. Rapp's personal animosity against Sanchez was also readily apparent and intensified an already tense atmosphere.

Granted, Sanchez was ousted by a vote of the whole Senate. But these are students who have to work and study together and when the executive committee's "recommendation" is for firing, trust for their co-senators and peer pressure is strong. It's scary that this is the way problems are decided by the AS with no representation or real evidence at the Executive Committee level. It gives even more influence and power to any president and his allies in a supposedly democratic organization. And without a viable appeal process in sight. (Sanchez was allowed to appeal to the Dean of Students Tom Burke who decided the AS president did

have termination power and upheld the decision.)

I feel Rapp abused his power as AS president in initiating Sanchez's firing and the way the hearings were handled. I also think the undergraduates need an appeal process for situations such as this if they continue to allow the AS president such power. A lot of people fall for power and the only way to allow everyone a fair chance is to install some checks and balances. Everyone needs a second opinion for something as serious as firing an editor even if it's in the name of saving the reputation of USD.

Basically, this episode is now a closed book. Rapp is still president and Sanchez is not editor. They both graduate this year and will go on with their lives. And though Rapp has no power over the editorial content of *Motions*, it's still scary to see censorship so close to home, and that same power still available to next year's president.

No student body president should be able to terminate a journalist working within the bounds of accepted journalistic techniques and ethics who made a human judgment error in printing someone else's "loose lips" testimony. Go on, tell me about believing in freedom of the press again.

## Modern technology and having babies don't mix

By Kathleen Murphy Mallinger

Baby M was an interesting kid. She represented a mix of new and old: a combination of modern technology with the old-as-dirt human experience of having, and sometimes wanting, babies. An attempt to extend contract law was also thrown in for good measure. Baby M gained fame because this particular mix didn't work.

The new seems to be celebrated by most Americans. Technology, especially medical technology, is almost synonymous with progress. Heart, lung, and liver transplants are described as "pioneering." Hospitals are romanticized as exciting, not painful, places. Words such as "medical heroics" and "new scientific breakthrough" create an aura of a brave struggle against disease and death.

Recently, there has been more thoughtful ambivalence about the effects of the technology. Germs seem to be smarter than antibiotics; side effects of treatments can be as dangerous as the disease being treated; neonatal rescues of tiny babies give them life only with substantial limitations. In addition, political, legal, and ethical dilemmas develop. Should an undocumented Mexican, in a stable coma in San Diego, be returned to almost certain death in Mexico or stay here? If there are few ICU beds available, should they go to the youngest patients? Should Medicare insurance cover heart transplants?

Many infertile couples find no such ambivalence in the technology, but see it as a solution. Traditionally, demograph-

ers have found that about 10% of couples in all countries are "naturally infertile;" but many infertile Americans see nothing natural about it. They experience infertility as an emotionally crushing disability while the technology may offer hope for those who can pay for it.

Mixing technology and baby-making does produce some strange interactions. William Stern and Mary Beth Whitehead drove together to New York from their homes in New Jersey several times a month to a doctor's appointment for the inseminations. This technology is so distant from reality — one would think that a local motel room would be faster and cheaper.

The April 4 issue of *Newsweek* stated that one company has helped 169 couples conceive test tube babies. There is an abundance of surrogate mother applicants who may be paid \$10,000 for their services. Test tube conception and implantation in a non-genetic mother is possible and may be here already.

Critics of the technology of infertility, in particular of surrogacy, have some good arguments. First, they claim that the baby market has a pure economic base, amounting to rent-a-uterus. But what's wrong with a little free enterprise? Imagine, making money and filling "a special need." You can feel good all the way to the bank.

The critics respond that you can't reduce fertility to money because other people get involved, people related to the paid uterus, sperm and ovum. People like Mary Beth Whitehead who, although poor and manipulative, for some weird

reason, can't be bought. The NJ Supreme Court also found the surrogacy contract unenforceable. An economic market subject to emotional indecision and possibly without legal protection is very vulnerable.

Another good argument of the critics is more subtle: devoting premium resources to make a few supposedly "better" children while numbers of homeless and hungry children increase and less than perfect children are available is genetic arrogance. These detractors claim that surrogacy symbolizes having narcissistic culture seeking to avoid the grim reality that having a child, any child, is basically an exercise in risk-taking. To simplify: having a kid is the ultimate crap shoot; one's personal genetic structure doesn't offer immunity from this risk; and if we value babies, we should value all babies.

However, the logic of the critics confronts the insistence of infertile couples on their personal right to use — and pay for — whatever technology exists. I think infertile couples who want children as close as possible to their genetic structure will be undeterred by any argument. They are motivated by the same non-economic goals that motivated Mary Beth Whitehead. And while motivated by non-economic goals, they have the money to pay for it.

The apparent technological solutions to infertility present more issues. There is likely to be increasing legal confrontations and emotional manipulations, especially with five possible parents: two genetic paid donors, a gestational mother and social, perhaps adoptive, parents. What about the child's right to access medical and adoptive records concerning conception, gestation, and adoption?

Some claim that the legal system codifies cultural beliefs and common human experiences which need the protection of a flexible but consistent structure. Others hold that the law enforces the existing economic structure. In either case, I don't see a compelling reason now to choose sides and sanction surrogacy contracts. Perhaps that's because I don't celebrate the new technology; we have yet to know all its emotional, financial and ethical effects. The parenting technology has many intersecting interests: doctors, lawyers, therapists, infertile couples, prospective surrogates. I distrust the incentives of many of these people. I am ambivalent.

### Motions

Editor-in-Chief  
Starr Lee

Managing Editor  
Mel Epley

Legal Articles Editor  
Thomas Mauriello

Contributing Writers: Misty Colwell, Kate Diesfeld, Gary Fielder, Dale Giali, Joy Kolender, Ina Levy, Kathleen Murphy Mallinger, Jeffrey Merrick, Mark Norman, David Olan, Richard Osborne, Richard Rosenstein, Mike Still, Kathryn Whistler

Photographers: K.L. Chapman

Artist: Gary Fielder

*Motions* reserves the right to edit or refuse editorial and advertising content deemed unsuitable or inappropriate for our readership. Contents of this newspaper are not necessarily the official views of, or endorsed by, the University of San Diego, or the School of Law.

The *Motions* is published two to three times a semester. The office is located in Room 114A, bottom floor of University Center. Mailing address is: *Motions*, USD School of Law, Alcalá Park, San Diego, CA 92110. (619) 260-4600, x4343.





## Amicus Curiae

SBA President Lesley Clement is to be complimented for her very active participation as the SBA delegate at faculty meetings. She speaks up regularly on behalf of the student interests she represents. However, I believe her article in *Motions* (February 9, "Faculty Bar Committee proposals delayed again") suggests that she somewhat misperceives how the faculty operates as a deliberative body.

In reporting on the faculty's consideration of two proposals from the Bar Improvement Committee dealing with mid-term exams and a special "bar review" course. She observed that "dilatatory tactics used by powerful faculty members" served to "demoralize faculty members who participate on Law Faculty Committees in good faith" leading to a "perpetuation of the status quo to the detriment . . . of the law school."

When I first began attending faculty meetings six years ago as a newly-appointed Assistant Professor, I shared Lesley's misperceptions. It took me some time to understand how the faculty operates. I eventually made two surprising discoveries. First, I discovered that the faculty is a truly democratic institution. Anyone can say whatever he or she wants to say at a faculty meeting. People do listen and respond to what others say.

Everyone gets exactly one vote. A "powerful faculty member" is one who

comes prepared and argues persuasively. Although I thought I saw certain voting blocs at work, I discovered these were only apparent and changed at will.

Second, I discovered that on important questions, such as the questions to which Lesley refers, the faculty is not majoritarian but consensual. The faculty resists implementing important policies that lack broad support. The "dilatatory" tactics she observes are in most cases attempts by faculty members on both sides of the question to move toward a center position of consensus.

The Committee recommendations recently before the faculty may have a far-ranging and significant impact on law school resources and student performance. The legitimate role of the faculty was to raise and examine every possible defect of the Committee recommendations.

As one who generally supported the recommendations, I was not prepared to vote affirmatively unless and until I felt we had approached a consensus and had identified and corrected the major defects. The strong position Lesley took in support of the recommendations was instrumental in carrying out this process of correcting defects and moving toward consensus. She played an active role in the process she criticizes.

Steven Hartwell  
Associate Professor of Law

## Contra Aid is not the answer

by David Olan

In the last issue of *Motions*, a good friend and respected colleague wrote an article in support of Contra Aid for the Nicaraguan rebels. The query "How can USD students support Soviet military bases in Nicaragua?" begs the question as to whose war it really is. No student can support Soviet military bases in Nicaragua. However, pumping millions of dollars into the Contra cause is a far cry from the solution to ending the strife in Central America and promoting democracy there.

Sadly, the conflict in Central America has escalated significantly in recent years. Continuing Contra aid only serves to fuel the fire in Nicaragua, a country desperately seeking political viability and identity. Nevertheless, the geo-political importance of Nicaragua reigns supreme. Accordingly, the United States and the Soviet Union have invoked ideological hyperbole to justify intervention in Central America.

The conflict in Nicaragua, however, did not begin as a struggle between the East and West, rather it began with a fervor of nationalism inside the country. Indeed, the struggle in Nicaragua is indigenous, arising because of the disparity in wealth and the inequities associated with a Central American socio-economic hierarchy.

Since the inception of the Reagan era there has been a fixation to overthrow the Sandinista government. However, the Administration never managed a clear statement of its goals. Adherents of the Domino theory also have supported Contra Aid. This represents a throw back to the conventional wisdom of the 1950s when the McCarthy "Red Scare" paranoia pervaded the Americas.

Consequently, a vicious circle has developed with both the U.S. and Soviet Union relentlessly trying to woo this impoverished, confused and underdeveloped country into their ideological camp, primarily to enhance their strategic muscle in the Western Hemisphere in a never-ending effort to achieve global hegemony.

As the old saying goes, "History does not repeat itself, but fools repeat history." The American disaster in Vietnam should serve as a warning of the potential doom of American Foreign Policy. Certainly there are many contrasts between the struggle in Nicaragua and the Vietnam war. True, our national security interests are more threatened in Central America than in Vietnam which is 12 time zones away, but the idea is the same.

The scenario goes something like this: the United State intervenes presumably to help a poor third world country from being engulfed by the disease of communism, when in fact the dispute was created internally. Ultimately, the opposing force of nationalism is greater, resulting in the

U.S. embarrassment and defeat by a seemingly second-rate power. Public opinion, both domestic and international, is galvanized against the U.S. government and another long-term enemy is created.

This mess could probably have been avoided years ago if a coherent policy was formulated. Instead, efforts were focused on demolishing an unidentifiable evil rather than concentrating on a workable solution. Such arbitrary policies only serve to invite Soviet participation to establish their own clientele throughout the world.

Cuba is a paradigm example. When Castro came to power during Eisenhower's presidency the United States would have nothing to do with him because of his Marxist inclinations. Efforts to overthrow him failed. Cuba was always financially dependent on the U.S. After it became abundantly clear that Castro was there to stay, the U.S. divested its assets and discontinued trade. Castro turned to the Soviet Union.

At this juncture in Nicaragua the only plausible solution is increased negotiations on a higher lever. Credit must be given to the Costa Rican President Arias for his efforts to stop the fighting in Central America. This was a tremendous step towards peace in that region. In substance, however, the Central American Agreement cannot effectively foster stability without the bilateral support of the U.S. and the Soviet Union.

Perhaps the greatest accomplishment of Reagan's foreign policy was the negotiation of the INF treaty. Indeed, the reduction of nuclear weapons arouses hope for posterity. In spite of the INF's apparent success, Reagan and Gorbachev must deal with such peripheral issues as the Persian Gulf and Central America. The fact of the matter is that the Super-Powers could ignite a conflagration of biblical proportion in areas where proxy forces are fighting their battles.

Unquestionably, Soviet military bases in Nicaragua pose a serious national security threat to the U.S. Recently, however, the Soviets have indicated a willingness to come to terms with the U.S. This can be evidenced by the fact that they are pulling out of Afghanistan and made concessions vastly reducing their nuclear potency in Europe during the INF negotiation.

The focus of the next Gorbachev/Reagan summit should be on Central America. At best, the World Leaders could agree to a "hands off" pact and discontinue funding their respective forces to let the cards fall by themselves in Central America. At this point, however, supporting Contra Aid is a dangerously simplistic "aid" which only costs lives and provides incentive for increased Soviet intervention.

## Outgoing prez applauds student organizations and successful year

All things must come to an end, and so must law school. To all of my classmates graduating in a few weeks, congratulations, we have done it!

I am proud of the efforts of all of the student organizations and am happy that I was sometimes able to facilitate some groups needs. I am particularly proud of this newspaper. I really put my neck out on this one and have to thank Starr Lee, Thomas Mauriello, Mel Epley and their writers for making my decision to start a new paper a good one.

Thanks to the hard work of its editors, *The Journal of Contemporary Legal Issues* is a reality. In addition to our *San Diego Law Review*, we now have a second legal journal, giving twice the number of students the opportunity to work on and be published in a legal journal. I cannot leave this subject without noting the accomplishments of the Board members of the *San Diego Law Review*. For the first

time in years the Board, headed by their industrious Editor-In-Chief, Tom Courtney, has released issues on schedule. The members and executive boards of these two law school publications should be applauded for their diligence and perseverance.

The National Lawyers Guild, Amnesty International, Black Law Students Association, Comparative Law Forum, International Law Society, and La Raza were responsible for several very interesting speakers. Particularly moving was BALSAs' Martin Luther King Day forum.

The More Hall Public Interest Law Foundation and its founders, Richard Bargetto and Jenni Barnes, showed us the compassionate side of law students and faculty whom we often describe as cynical or uncaring. In one week this organization, dedicated to subsidizing students who choose public interest law work, raised over \$11,000 from students and faculty.

This year's Intramurals, under the direction of our beloved Czar, Gary Saunders, gave many of us the opportunity to show off our athletic prowess and let off a little steam. USD Law School recently participated in an all-state invitational softball tournament hosted by Stanford Law School on April 9 and 10. The word "participated" is not an adequate expression of our team, "dominated" is. USD took the tournament, 5-0, and brought home a beautiful trophy now on display in our trophy case.

The final item on my agenda for this year is the Law School Graduation. The Graduation Party tickets are on sale now at the University Center Box Office, Monday and Friday 10 a.m. to 7 p.m. and Tuesday, Wednesday, and Thursday 10 a.m. to 5 p.m. (You must show your law school I.D. at the Box Office). The Party is Thursday, May 19, at Tiajuana Tilley's (the old Lehr's Greenhouse) at

9 p.m. The ticket price is \$5, and includes all the food you can eat, admission into the disco with a live band, and either a Corona, Long Island Iced Tea or a well drink. Be sure to bring both your ticket and driver's license to the party. Graduates, be sure to buy your tickets soon, this is our last bash together, and will sure to be a sellout.

Lesley Clement  
SBA President

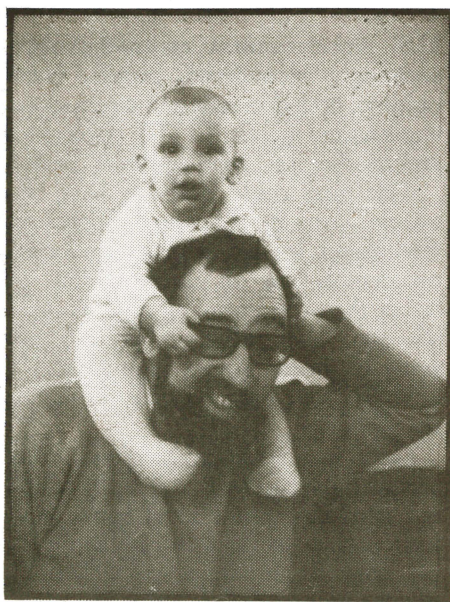
### IN MEMORIAM

The Law School is saddened to announce that 1987 grad Richard Mulvey died early this month.

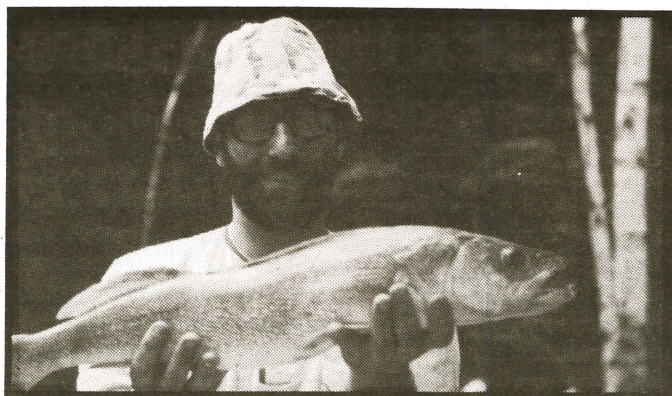
The family requests that in lieu of flowers, donations be given to: Muscular Dystrophy Association of San Diego, 6136 Mission Gorge Rd., Ste. 129, San Diego, CA 92120.



# Writs



Morris' son Josh turned 18 last week.



This 1970 catch, a 27", 5 lb.-1½ oz. pike, won second place in a Michigan fishing tourney.



Morris, relaxing at home, a few years ago in San Diego.

## The many faces of Grant Morris:

### Professor, mental health specialist, pitcher, acting dean

by Dale Giali

Professor Grant H. Morris. Twenty years ago he was studying at Harvard towards his LL.M. after having graduated from Syracuse University Law School with honors. Today, Morris is about to embark on his second term as interim dean of the USD School of law. What is it about this man that makes him a very popular professor and one who, after fifteen years of service to this school, is still doing all he can to make it better?

"I view life as an opportunity to do a lot of different things," says Morris, who will be assuming the role of acting dean

#### Krantz leaves USD to be visiting scholar

by Mike Still

While he is going to miss USD, Dean Sheldon Krantz is looking forward to his sabbatical and will be quite busy during it. Krantz will be a visiting scholar at UCSD in the political science department. He will be working on a book concerning the future of the legal profession and will do some informal teaching by talking to students and faculty. After that, Krantz has "no immediate plans as to what I'm going to do."

Krantz signed a contract with Oxford University Press to write a book on the future of the legal profession three years ago, and decided about two years ago to take a sabbatical to do the book. Thus, the book is actually a long-delayed project. Krantz noted that he "is very concerned about the state of the legal profession and I'm also concerned with the legal teaching area." He is looking forward to writing the book, "as it is something that I've really wanted to do."

Krantz enjoys writing and noted, "Administration of a law school forecloses the opportunity to write."

Krantz is also currently trying to finish a book he has written on prisoners' rights. Krantz noted that he went into academic life after determining that there was a need for scholarship in the criminal law area, after he had worked in the criminal law field for a few years.

As far as USD is concerned, Krantz stated that he is "delighted with the development of the law school and the student body," and that he has "a lot of confidence in the school's future development." Krantz noted that he is very pleased with the development of the law school newspaper *Motions* and that the alumni have been very pleased with it also. Krantz feels that the law school newspaper is "moving towards being a very professional publication."

of the law school on August 1, 1988, when Sheldon Krantz leaves to go on sabbatical. Morris who has been at the University of San Diego since 1973, has certainly lived out his view that life is an opportunity to do a lot of different things. Besides being a professor and an acting dean, Morris is a prolific writer, a nationally recognized authority on law and mental health, a past consultant to the American Bar Association and a devoted family member.

Morris attended Syracuse University for both undergraduate and law, obtaining both degrees in six years. While he was going through school, he worked as a motion picture projectionist for the family-owned movie theatre. He did not have a legal related job during his law school days, but Morris was on the editorial board of the law review and a member of the Moot Court Board. Even though his father was a lawyer, there was never pressure to enter the legal profession.

Upon graduation Morris was admitted to the bars of New York state and the Federal District Court for the Northern district of New York. Directly out of law school Morris worked for the Institute of Public Administration in New York City. The position involved revising the Mental Hygiene Law of the state of New York, a particular interest of Morris, whose brother is developmentally disabled. Because of the desire to do further research on mental health, Morris went to Harvard, where he received an LL.M. in 1971. It was his desire to continue research that whetted his appetite to become a law professor.

After completion of the Harvard program, Morris took a position at Wayne State University in Detroit, where he stayed until coming to USD in 1973. At USD he has taught classes in torts, law and mental disorder, mental health law clinic, legal writing and analysis, and lawyering skills. During the school year of 1977-1978, Morris served as acting dean, when then dean, Don Weckstein, was on sabbatical leave.

#### Mental health consultant

Morris was a consultant to New York, Michigan, Arizona, and the American Bar Association helping to prepare standards and recommendations for the way the law deals with mental health issues. Many of these recommendations and reports have been published. His work for the ABA is codified in Chapter 7 of the ABA Standards for Criminal Justice, and based on his recommendations, Michigan enacted a new mental health code. He wrote a report for Arizona on various facets of the insanity defense and statute proposals and his work on the insanity defense was published in the book, *The Insanity Defense: A Blueprint for Legislative Reform*. Other writings include six books

and 26 journal articles, most of which deal with the law and mental health.

Morris has been making hands-on contributions to his field since he left law school. Recently, Morris finished a two-year term as a certification review hearing officer here in San Diego. His role was to determine whether probable cause existed to involuntarily detain mentally disturbed persons. Sitting as judge, Morris would hear advocates for both the patient and the hospital and make his decision accordingly. His experience and insight on this process is written up in his latest journal article, *Civil Commitment Decisionmaking: A Report On One Decisionmaker's Experience*. This article was published in the January 1988 "Southern California Law Review."

#### Acting dean

As acting dean, Morris should get ample opportunity to apply his many skills. The library reconstruction should start sometime this year and become a major concern to everyone during Morris' deanship. Also, Morris will have to deal with the exceptionally large class of 1990, and make sure that it doesn't happen again; a difficult task considering that applications have gone up 55% this year. Morris realizes that his ability to tackle the problems will be hampered by the fact that he is only "acting" dean. While he will get more than his share of problems to deal with, the power and ability to solve the problems will be less than for one who is assuming the position in a permanent capacity.

Throughout the next year the search for a new dean will be going on, and while Morris will not be on the Dean Selection Committee, he will be involved through interviewing each of the candidates and by his communications with the university president. Morris sees the dean search as the most important issue facing the law school in the next year. "The new dean must be one who will follow through on commitments, make the faculty more cohesive, and get the faculty involved in changes that will improve the educational program," Morris stated.

Is Morris interested in the full-time deanship? Officially, he is not a candidate for the USD position, but depending on how he likes being dean this next year, he may consider a full-time deanship as something he would like to do in the future.

On the issue of whether a law school's role is to teach a trade or a discipline, Morris said, "Law is not a trade. However, it is not enough to have people coming out of law school solely as intellectuals, being able to discuss law on a theoretical level only. The knowledge must be applicable. Lawyers must know how to deal with clients. Skills training and professional responsibility are an impor-

tant component of a well rounded legal education."

What does the new acting dean think of midterms, which will start during his deanship? "My first reaction was negative, but I am more than willing to try it as an experiment," he replied. Morris is concerned that midterms will cut into all the things that students currently do during the time in which the midterms will take place, such as moot court competitions, preparing for other classes, law review, etc. As an example Morris noted the drop in attendance in his first year torts class around the time that the lawyering skills brief was due. He fears that testing in one class will adversely affect attendance and preparation in other classes. "Setting aside a week for the midterms may alleviate this problem," Morris said, but he is concerned that any breaking up of the semester may affect the overall ability to teach law coherently.

Regarding the diversely qualified program at USD, Morris said, "It is highly important that we bring into the legal profession as diverse a population of well qualified people as we can." He is concerned, however, that we do not accept those who can not make it, as that is a terrible disservice to everyone involved. "The tutorial program is a great idea as long as it gets the proper supervision and guidance."

#### Father and athlete

Morris is married and he and his wife, Phyllis, have two children, Joshua, a senior in high school, and, Sara, a sophomore in high school. The walls of Morris' office are decorated with the things that his children have made for him through the years, including a large, beautifully decorated paper maché fish that his daughter made, and a picture that his son made, which has the distinction of being the first picture which Morris could tell what it was. Morris knew it was an apple tree, because of the large red blob that was on the grass next to the tree. Phyllis Morris is a CPA and former high school teacher, who is currently running for a seat on the local Board of Education.

Morris jogs three times a week and has been known to participate in triathalons. He is also the pitcher for the faculty softball team, a position which gives him the distinction of having the highest ERA in the history of softball.

If you have ever had the privilege of being in one of professor Morris' classes, you know what he means when he says, "I think its important for professors, in addition to being challenging, to be entertaining enough to get the students involved in the material." Morris views life as an opportunity. It is equally obvious that he thinks every opportunity should be given full enthusiasm and effort.





## KAPLAN-SMH WELCOMES BARRY JOSEPHSON TO OUR BAR REVIEW FACULTY

Kaplan-SMH Bar Review Services is pleased to welcome Barry S. Josephson to our California faculty. Before joining Kaplan-SMH, Mr. Josephson was the Editor-in-Chief of the Josephson Bar Review Center and its legal study aids division (the developer of Sum & Substance books and tapes) and has been helping law school graduates pass their bar exams for more than 17 years.

As the Intellectual Director of the Kaplan-SMH California Bar Review Program, Mr. Josephson will be lecturing on substantive law, test-taking techniques, and essay writing.



STANLEY H.

**KAPLAN-SMH**  
BAR REVIEW SERVICES

(800) 223-1782 (800) 343-9188



## Law school hires new, visiting profs with impressive backgrounds

by Starr Lee  
Editor

It may be only April of 1988 but the Faculty Appointments Committee has been working all year to recruit quality teachers for classes for next year. The recruiting season is now over and five instructors have accepted tenure track (full-time, permanent) positions. The visiting professors have also been lined up and include some of the starting lineup of this year.

Three of the new tenured track professors worked at USD in different capacities this year. Steve Hartwell and Terry Player, who both work with the Legal Clinic, were previously on contract status, while Lynne Dallas was a visiting professor.

The newly recruited professors are Evan Lee and Michael Kelly. Lee, a 1985 Yale J.D. and U.C.-Berkeley A.B. graduate, currently works for the San Francisco firm of Cooper, White & Cooper. During 1985 to 1986 he was a law clerk to the Hon. William Orrick, Jr., U.S. District Judge for the Northern District of California. Lee will teach Civil Procedure in the Fall and Spring, a course entitled "Relationships Among Courts" in the Fall and Federal Jurisdiction in the Spring.

Kelly is a 1983 Michigan J.D. graduate, has his M.A. from the University of Illinois at Chicago and B.G.S. from Michigan (and a classmate of Chris Wonnell). He was a member of Phi Beta Kappa, Order of the Coif and Moot Court. Kelly will teach Contracts to a first-year section and Legislation in the Fall and Remedies in the Spring.

Dallas will teach Corporations next year. Hartwell and Player will continue working with the Legal Clinic and teaching.

The visiting faculty for next year includes present visiting professors Carl Auerbach, Joseph Edrey, Charles Morris and Willard Wirtz. Then new visiting professors of next year will be Alfred Conard, Phillip DeLaTorre, Rodney Smith and Timothy Terrell. Joanne Conaghan will also be returning to teach Contracts and Torts.

DeLaTorre is a professor at Kansas University School of Law. He received his J.D. at Harvard in 1978 and then worked for a Kansas City law firm before joining the faculty at K.U. in 1980. He will be teaching Property and Trusts & Estates in the Fall and Oil & Gas Law in the Spring.

Smith received his J.D. and LL.M. at Brigham Young University. He has been

a partner in the firm of Smith, Buchanan & Smith, the City Attorney of Bishop, California and has taught at University of North Dakota and University of Delaware. He will teach Contracts and Constitutional Law in the Fall and Constitutional Law and Sports Law in the Spring.

Terrell will be at USD in the spring only. He has been teaching at Emory University since 1976. He received his J.D. from Yale and written articles on Constitutional Law, Real Property and "Military Law in a Nutshell" (with Shanor) among others. Terrell will teach Constitutional Law and Trusts & Estates (the second half of Morris' class).

Conard will teach in the spring only. Admitted to the bar in 1937 in Pennsylvania, Conard holds several post-graduate degrees and has held many positions, academic and in the "real world," over the years. To name a few of his activities, Conard taught at Kansas University, Illinois and Michigan (1954-1982) and has been at visiting professor at the University of Istanbul, Florida State and Pepperdine. Many of his articles on aspects of corporation law have been published and as well as a book, "Enter-

prise Organization" (3rd edition, 1982, with Knauss and Siegel). Terrell has been a Henry M. Butzell Professor Emeritus at Michigan since 1982. He will teach Corporations and Securities Regulations.

The Faculty Appointments Committee, headed by Larry Alexander, reviews resumes, screens applicants and decides who to interview. Two-thirds of the interviews are held at the American Association of Law Schools Recruitment convention in Chicago. The sole purpose of the "meat market" is the applying, recruiting and headhunting of law professionals for law schools. The rest of the interviews take place in various locations.

After the interviews, certain applicants are invited to the campus for all day interviews with Committee members and other faculty. Normally the applicant gives a scholarly presentation in his field of expertise, which is open to all faculty members. Later, the Committee makes its recommendations for hiring to the faculty. A majority vote of the faculty is required to offer a position.

For more information about these professors or any of the faculty, their biographies are available at the Records Office.

## Nightmare at Lake Powell

by Thomas Mauriello  
Legal Articles Editor

I heard a high-pitched grinding noise from my engine as we coasted down a scenic road from the Kaibob National Forest in Northern Arizona. Unknown to me at the time, it was the first rumbling of an experience so bizarre that it would've made Rod Serling drool. Hoping the noise would go away, I said nothing to my buddy, and we kept going. We descended the plateau and reached the desert. We were en route to the major highway that would get us to New Jersey in record time.

I had just finished my first year of law school and was returning to New Jersey for a summer job. Brian, a friend since childhood, was going along for the ride and to visit his parents back in New Jersey. This was to be one of those epic cross-country trips, in the style of Whitman, Kerouac, Kesey, etc.

The Rabbit, however, was becoming insolent. We hit some "traffic" three cars actually after crossing the Colorado River at a small town called Marble Canyon. I slowed down and switched to third gear. To my surprise, the stick popped out of gear. "That's OK, when I want to use third, I'll just hold the stick in gear," I said to Brian.

The Rabbit wouldn't hear of it. After another quarter mile, it stayed neither in fourth, third, second, nor first. I pulled off the road and stopped the engine. Black fluid was leaking from the engine and the car wouldn't start again. We hitched a ride back to Marble Canyon, and made arrangements to be towed to the nearest town with a garage. The town, Page, was about fifty miles away.

Bob Steele, the tow-truck guy, looked like his name sounded. About fifty-five, he was big, bald and tan. Being city boys, we were a bit perturbed that there wasn't a transmission place nearby. When Brian asked Bob why we couldn't just go to an Aamco instead of having to be towed to some small town garage in Page, Bob snapped, "And where would you like one to be!?" Thus, we were off to Page.

At first sight, Page looked like small-town America in the 1950's—kind of a Mayberry RFD type of deal. The town was about a mile square, and several miles south of the Utah border. Its sole reason for existing was that the people who built the neighboring Glen Canyon Dam in the early 1960s decided to stay in the area.

Dan was the crusty old, leather-skinned owner of D&J Auto Repair. We went

into the garage and told him we were here with a dead car. As he walked across the lot he squinted at the car from a distance and asked us what kind it was. When I told him it was a diesel Rabbit, he simply replied, "Ah, hate them things."

We tried to start the car but it wouldn't start. We all pondered the cause of my car trouble for a few minutes, and we eventually decided that it probably was the transmission. Dan offhandedly remarked that a similar problem had recently occurred to a woman travelling through, and "by the time she got outta here, her bill was fifteen-hundred dollars." Well, at least our roles were clearly defined from the start, I thought: we were the tourist city slickers about to be fleeced, and Dan was the person designated to do the fleecing.

Dan said he wouldn't be able to open the engine up until the next day. So here we were on Friday of Memorial Day Weekend, 1986, stuck in a small town with a dead car, nothing to do, nowhere to go, and no way to get there anyway. We got a six-pack and staked ourselves out in the concrete lot next door to the garage, where we slept that evening.

On Saturday, we were told that the transmission specialist who contracted for D&J Auto wouldn't be able to open the transmission up until Tuesday. Brian and I decided to hitch out to Lake Powell and camp for a couple of days to make the best of things. We had heard about a place called Lone Rock, so we packed the cooler with beer, tequila, and a little food, and we hit the road.

"Lone Rock" wasn't. Every inch of the shoreline was filled with campers and four-wheeled vehicles, so Brian and I were forced to pitch our measly tent up on a dune away from the lake. Three-quarters of the people were cruising back and forth across the beach in their pickup trucks, with Black Sabbath blasting from the speakers and lots of whoopin' and hollerin'. The other one-quarter were riding dirtbikes and ATV's, not on the beach but on the dunes immediately around the tent. As it grew dark, Brian and I commiserated over cheap tequila.

The motocross lasted well into the morning and the incessant buzzing gave me nightmares that I was an extra in the "Texas Chainsaw Massacre." Daylight finally arrived; I could tell this because the temperature inside the tent had reached sauna level.

(Continued on page 11)

## Financial Aid deadlines and forms

by Richard Osborne  
Financial Aid Director

Anyone who has applied for financial aid will remember that a process of filing all necessary forms, complete with deadlines, is the way to get financial aid monies. It is/was of course an "unforgettable" experience for continuing students, but a little review may be in order.

**First, "deadlines".** Deadlines are a set time by which something must be done. Deadlines for all materials for:

1. Summer Abroad: March 1, 1988
2. Summer USD: April 1, 1988
3. Fall/Spring: May 1, 1988

Student deadlines allow for a limited FAO staff to process and expedite the hundreds of financial aid receipts and the monies they need for University deadlines. If a student does not meet a deadline it doesn't mean that the student is forever precluded from receiving aid from the various programs to which he or she may wish to apply. It does mean that the particular aid monies, for instance, proceeds from an SLS loan, may not be available for registration, and that if the student did not process by the appropriate deadline, a deferment may be necessary from Financial Aid. Student Accounts will then require that the student sign a Tuition Contract. A contract fee of fifty dollars, payable at that time, will be charged by the University for extension of tuition payment.

A second disadvantage to missing a deadline, especially for the Fall semester, is that the chances for award of discretionary funds, such as low-interest loans, scholarships, and college work-study, are severely reduced.

**Second, "forms".** Forms are sometimes thought of as nuisances with vague or confusing instructions, asking obvious and ridiculous questions. Yes, but please allow me to point out that it is through this process that financial aid monies are received. So, assuming that you have now capitulated . . .

- 1) Forms required for non-need based aid (SLS, LAW ACCESS, GRADED)
  - USD Financial Aid Application
  - Financial Aid Transcripts on file
  - Supplemental, Law Access or/and GradEd loan forms
- 2) Forms required for need-based aid (GSL, PERKINS, TCL, CWO, CWS)
  - USD Financial Aid Application

- Financial Aid Transcripts on file
- CSS, or CSAC, Needs Analysis Form
- 1987 1040 Federal Tax Returns (Copy of return and W-2's)

If incomplete files have adequate information, the Financial Aid Office will nonetheless process loan forms. Although it will be the students' responsibility to supply the requisite documentation, students will be mailed a card indicating information or forms needed to complete his or her file. Students are admonished and cautioned, that no checks or disbursements may be released until the completed file comply with Federal Regulations.

**Third, "Awards/Verification".** All the money in the world it isn't, but if you receive a Financial Aid Award Letter for an amount that you cannot subsist on, you are advised to consult with a financial aid counselor. It is possible that you may be considered for additional loans based on expenses which can be included to adjust the student budget. A counseling session would elucidate these possibilities. Do, however, sign and return the award letter within the two-week period. Discretionary funds listed on the award are subject to cancellation after that date. Some students will also receive a Verification Statement. This indicates that the government is requiring verification of data submitted through the needs-analysis process. Documentation requested and supportive of the initial data should be returned within a thirty day period. Student applications coded for verification, must be validated before checks or disbursements may be released.

**Finally, "Kaput".** Kaput means you are finished with the process except for receipt of financial aid dollars. You probably need no advice on this part of the process.

I can't resist. Just a word of advice. Present financial planning and debt management, if prudent, will pave the way for early realization of earning potential; yuppies will often admit to having had lesser lifestyles as students. And remember, the staff in the financial aid office is here to assist you, but . . . It is your responsibility to know or seek the status of your file. Please submit all required financial documents; any omissions may result in your file NOT being reviewed. Don't be discouraged, the results will be worthwhile.



## Antenatal Genetic Screening: A compulsory program for all pregnant women?

by Richard T. Rosenstein

Abortion is one of the most controversial issues of our times. It reflects a quagmire that has been partially unraveled in the United States Supreme Court as of late, but is still an issue that promises to attract debate for many years to come. Most recently, legislatures have voiced their concern regarding debilitating genetic defects and the possibility of making medical screening techniques available to all pregnant women within our society.

The idea of applying a form of antenatal screening to all pregnant women is a novel, even revolutionary, one. On the face of it, a simple blood test taken from every pregnant woman between 16-20 weeks (followed by amniocentesis and other diagnostic techniques if target serum levels are identified), which would identify 90% of the fetuses with anencephaly and 80% with spina bifida, appears to be a relatively simple and rewarding undertaking. After all, by identifying an afflicted fetus in utero gives physicians the opportunity to both inform parents about the status of their fetus' health, as well as to give parents an understanding of the deleterious effects that the identified neural disorders have upon the child and the society within which he/she lives.

### Some birth defects detectable

Neural tube defects are perhaps one of the most common congenital abnormalities encountered in certain populations (1/1000 births in the United States). It was a major advance in medical science when, in 1972, it became possible to reliably diagnose these debilitating abnormalities in utero. The high risk group was identified as parents who previously had a strong family history of neural tube defects. These "high risk" women were helped dramatically by having prenatal testing such as amniocentesis whereby a doctor inserts a long, thin needle through the abdomen of the pregnant woman into her uterus and extracts a small amount of the amniotic fluid (about an ounce) from within the amniotic sac.

A sonogram is usually used as a means by which to guide the needle, and afterward the small puncture in the amniotic sac readily seals itself. The fluid that is extracted from the pregnant woman's amniotic sac contains cells that are shed from both the fetus' skin and gastrointestinal tract.

The amniotic fluid may reveal an elevated level of alpha-fetoprotein that is produced by the fetus' liver. The elevation of this protein suggests one of a number

of fetal abnormalities: failure of the brain or the spine to close properly; failure of the abdomen to close; or obstruction in the urinary or gastrointestinal tract. This powerful diagnostic substance, fetoprotein, which was believed to be absent from the normal adult's maternal serum, had been reported to appear in the blood of pregnant women.

### Compulsory screening feasible?

Under these conditions, it could confidently be anticipated that the high levels of alpha-fetoprotein that are detected early in gestation and associated with prenatal defects such as anencephaly and opened spina bifida, would also be reflected in the woman's maternal serum levels. This makes a large scale compulsory MSAFP (maternal serum alpha-fetoprotein) screening program possible for all those women who seek medical care before the twentieth week of their pregnancy. This program would, presumably, require one or two serum tests, ultrasound scanning to identify spina bifida. All of these procedures could be subsidized by the government.

Once the test results come back positive and the physician in the MSAFP program informs the parents of the inevitable consequences that are associated with certain debilitating genetic anomalies, the parents can then struggle with the painful decision of whether to terminate the pregnancy or to prepare themselves for the challenge of caring for an afflicted child.

However, it should be understood that the mandatory screening program representatives would be instructed to inform the identified parents of the consequences of their decision, just as sex education classes inform teenagers about contraception and abstinence. On the face of it, this informative approach seems compelling to those who are advocates of free will. In effect, however, this is an indirect method of persuasion that seems to indicate that the government is taking stand on the morality of abortion.

Utilitarians accept this premise but they still contend that such a program increases utility for the greatest number of people. Therefore, as a result of screening and selective abortion the suffering of a potential human being is spared by preventing a painful existence, the emotional pain and monetary expenditure of the parents is prevented, and society is exonerated from taking on the expenses of providing for the inevitable institutionalization of a grossly deformed child.

It has been estimated that if 90% of

the women who fall into the targeted serum level group choose abortion, then the state would save over thirteen-million dollars for every one-thousand women who were screened. Some commentators are of the opinion that it is unfair that one individual, the mother of the afflicted fetus, has the right to burden society with additional monetary expenses when that burden can easily be avoided. A few commentators have advanced the proposition that without the mandatory nature of an antenatal screening program pregnant women can take advantage of society's willingness to protect the well-being of its people.

Another beneficial aspect of a compulsory screening program is represented by the strict guidelines of the treatments. Since all pregnant woman are required to participate, then the treatment is uniformly distributed on a wide scale basis. As a result of the codified legal proscriptions that would be reflected in a compulsory program, not only would those women who could not otherwise afford the technology of antenatal screening have access to these phenomenal medical techniques, but physicians would no longer have to risk the high costs of malpractice suits as a result of offering prenatal diagnostic techniques or failing to identify an afflicted fetus.

Therefore, if a fetus was spontaneously aborted during amniocentesis or if an afflicted child accidentally slipped through the genetic screen, the physician would be precluded from civil liability if he/she adhered to the codified guidelines for the program. Even so, the physician performing the antenatal screening would still be held liable in tort if he/she failed to perform at the level

of care normally associated with a member of the medical profession in the same or similar circumstances.

### Moral issues included

In the abstract, it may seem as though compulsory screening programs which require all pregnant women to undergo diagnostic testing for the presence of fetal disorders should be allowed because of the obvious benefits, elimination of the pain and suffering of a helpless living creature. This issue by itself, while compelling, is not the major concern that we face when we confront a policy decision as controversial as instituting a compulsory genetic screening program. A program, such as the one described here, that requires all pregnant women to endure intrusive techniques that inevitably lead to abortion, seems contrary to the very laws by which we live and abide.

As a means of safeguarding certain fundamental rights which are not specifically enumerated in the Constitution, the United States Supreme Court has recently given attention to issues of substantive due process. If a government regulation impinges upon such a fundamental right, it is subject to a strict scrutiny analysis. Under these circumstances, a regulation would be held invalid unless it is necessary to achieve a compelling governmental interest.

The United State Supreme Court has recognized that right to personal privacy is protected by provisions within the Constitution. In the landmark abortion case of *Roe v. Wade*, the Court held that the right of personal privacy is implicit within the concept of "liberty," and is thus of fundamental importance in our

(Continued on page 14)

## Faculty Briefs

by Ina Levy

Professor RICHARD WHARTON, Law School, coached two of USD's teams in western regional competitions in Hawaii. In the Association of Trial Lawyers of America Mock Trials Competition, his team won the Western Regional Championship for the second year in a row. He will be taking his team to the National Competition in April. In the Jessop International Moot Court Competition our team was given one of two national at-large bids to the International Competition based on its outstanding performance in the competition. The ATLA team members were Chris Hulburt, Judy Lesser and Mark Pachowicz. The Jessop team members are Keith Kubik, Karen Peckham, Vickie Pochelle and Bryan Sampson.

PAUL WOHLMUTH has been elected co-chair of the National Association for Community Justice by its Board of Directors. N.A.C.J. facilitates the growing network of neighborhood and community mediation and conciliation programs around the country. Paul recently represented N.A.C.J. at the Washington State Conference on Mediation and Conflict Resolution and made two presentations on public regulation of the dispute resolution field at a legislative workshop during the Conference. In mid-January, he moderated a panel and gave the keynote address on professionalization of the dispute resolution field at the San Francisco Conference on Public Regulation of Mediation.

The Federal Judicial Center has approved for publication a report co-authored by Associate Professor STEVEN HARTWELL on San Diego's bankruptcy mediation program entitled "Alternative Dispute Mediation Resolution in Bankruptcy Court: The Mediation Program in the Southern District of California." The two-year old program, staffed and operated *pro bono* by the Bankruptcy Section of the County Bar is unique in the United States and the subject of national interest.

Legal Writing Instructor PATRICIA L. RAY, a former critical care nurse who holds a degree in Medical Ethics, presented the topic "AIDS: Legal and Ethical Issues" to UCSD's Aids Educational Training Center Faculty Development Conference on February 9, 1988. Patricia has given similar talks to the AIDS Conference for Nurses at Grossmont Hospital and to the San Diego Paramedics.

Professor NANCY CAROL CARTER reports that she has been appointed to a four-member program planning committee for the 1989 AALS Meeting. The group will plan the annual workshop for deans and law librarians and a program for newly appointed law library directors. Also, she has been appointed to a 3-year term on the *Law Library Journal* Advisory Board.

Professor TERRY PLAYER coached six student and accompanied them to Oakland, California for the ABA Young Lawyers Mock Trial Competition. One team placed in the semifinals, and all the students enjoyed a brief excursion of San Francisco.

For the third year in a row, Associate Dean WALT HEISER has donated some of his legal skills to one of USD's undergraduate English classes. Last month he served as a visiting "expert professor" on legal writing skills in an Advanced Composition Workshop taught by Mimi Kairschner of the USD English Department.

LAURA BEREND commends her second semester interns in Criminal Legal Practice II. Mark Pachowicz defended a woman charged with petty theft through a two-day jury trial in Municipal Court. The jury acquitted. Congratulations to both student and professor!

Visiting Professor WALTER RAU-SHENBUSH attended a meeting in Dallas on February 20 and 21 to plan a conference commemorating the 10th anniversary of the *Bakke* decision relating to affirmative action. On March 18-20, 1988 he will attend a meeting in Tucson of the Real Property Question-Drafting Committee for the Multistate Bar Exam.





# AIDS: The need for pro bono work grows as the virus spreads throughout American society

by Jeffrey J. Merrick

San Diego is witnessing an exponential growth of those infected by the AIDS virus. Currently, there are over 750 documented cases of AIDS in San Diego County. Many more have tested HIV (Human Immuno-Deficiency Virus) positive, of which approximately 45% will later develop the AIDS virus.

Timothy R. Pestonik has been doing pro bono work for AIDS victims since 1986. Pestonik, a graduate of American University in Washington, D.C. is an associate attorney at *Luce, Forward, Hamilton & Scripps*, a large and prosperous firm in San Diego. On Feb. 224 in Grace Courtroom, Pestonik addressed many of the problems of AIDS victims and discussed some possible solutions.

He knew virtually nothing about AIDS until its catastrophic effects struck his family, the virus taking the life of his father two years ago. It was after his father's death that Pestonik made an overwhelming commitment towards solving the numerous legal problems which confront those faced inevitably with death.

In June 1987, he and attorney Irene Cockroft launched an evening legal clinic at the San Diego AIDS project. Since the clinic opened its doors nine months ago, they have met the complex and diverse needs of over 300 AIDS sufferers.

Providing these services free of charge and entirely outside of his demanding schedule at *Luce, Forward*, Pestonik has helped these victims negotiate their insurance problems, compile their wills, and solve many other legal difficulties necessarily involved with preparing for death. Although American society has become painfully aware of the AIDS crisis, there is only one other clinic in the country (Boston) which provides these vital legal services pro bono.

Pestonik estimates the average age of his clients at the clinic to be 23. The primary concern of the AIDS sufferers who seek his help is not that they are going to die but how. About 50% of his clients experience medical and life insurance problems (for obvious reasons) and most are faced with the prospect of becoming financially ruinous burdens on family and friends. The AIDS virus is much the same as cancer in its languishing pace, the victim deteriorating from the slow but steady erosion of the body's immune system. Long months of suffering are marked by periods of mock recovery and severe relapse, as the immune system struggles in a battle it ultimately must lose.

## Severe penalties

Violation of these ordinances will carry severe penalties. Although actual damages are available, Pestonik views the true deterrent effect of this legislation in the allowance made for punitive damages. Because a jury is free to follow its conscience in deciding upon the punitive measure for discriminatory acts, the violation of the ordinances could result in extremely high money judgments against the offender. Pestonik views both the goal of this legislation and the work he does for AIDS victims as attempts to educate. "90% of what I do is educate people," he stated.

One of the greatest and most widely shared misconceptions about AIDS is the belief that it is a **contagious and communicable** disease, Pestonik said. Although quite fatal and presently without cure, AIDS is a blood transmitted disease which cannot be contracted through casual contact. Ignorance about the true nature of the disease goes to the root of discrimination against AIDS sufferers, many believing that the virus can be acquired through a handshake, sharing an office, breathing the same air.

Pestonik recounted stories of terror-stricken employees threatening to strike, others actually quitting rather than work with an employee with the disease. Landlords have thrown many AIDS sufferers into the street for fear that the disease would inevitably infect carpets and drapes.

Like civil rights legislation, these ordinances are aimed towards enlightening the public and alleviating the suffering of a desperate human condition. According to Pestonik, AIDS is a disease "shunned by society like leprosy." Because the majority of those infected are homosexuals and many other are intravenous drug users, an element of bigotry is inexorably tied to the prevailing attitude toward victims of AIDS. This form of discrimination is much the same as racism in that both are perpetuated by the same malignant ignorance, both generated by the same fear of otherness.

Although the costs cannot be estimated in monetary terms alone, the effects of AIDS can be financially devastating. Prolonged use of expensive medication, outpatient treatment and lengthy hospital stays are merely a few of the economic realities of AIDS. Many sufferers lose wages and jobs from the sporadic periods of relapse which render steady work an impossibility. Because Pestonik's services are free, many receive the help they need although few of his clients could afford one billable hour of most attorneys' time.

## Anti-discrimination law

Pestonik's dedication has carried him into the legislative arena where the fight against the widespread discrimination against the AIDS victim has set a national example. He participated in the drafting of the AIDS anti-discrimination ordinances for the City and County of San Diego which were enacted officially in March of this year. This sweeping legislation represents a victory against the many faces of discrimination, imposing stiff penalties for its violation. These ordinances forbid virtually all discrimination against those with the AIDS virus, those having HIV positive status, and those, such as Pestonik, associated with it.

This legislation bears a strong resemblance to much of the civil rights laws enacted in this country to combat racial discrimination. Employers are prohibited from refusing to hire and from unjustly terminating employees on the basis of their AIDS or HIV-positive status. The employer must also make reasonable allowances for the employee with the virus, providing time off during relapses and offering alternative duties that require less physically demanding labor. Pestonik classifies AIDS as a handicap, and rather than providing widened bathroom stalls or ramps, the victim needs more understanding in the workplace: more flexible hours, less straining duties, and recognition of the special needs which develop over time. The line is drawn when the employee can no longer perform satisfactorily on the job; the point at which termination is based on reasonable rather than discriminatory grounds.

Landlords are similarly affected by these ordinances in that it is now illegal to refuse housing or unjustly evict persons because they carry (or are suspected of carrying) the virus. Discrimination by city and county facilities is likewise prohibited, ranging from ambulance service and hospital receiving rooms to mortuaries and morgues.

Unfortunately, the cold finger of discrimination against AIDS sufferers continues beyond death; Pestonik told the horror story of a family forced to go "funeral home shopping" after losing a loved one to AIDS, turned away from three mortuaries before finding one that would provide a decent burial.

## Right to live with dignity

In a modern society which prides itself on its multiplicity and freedom of choice, the victims of this disease stand as a grim reminder of our hypocrisy. Pushed to the periphery of our society, fatally ill people are forgotten in the cloud of a social amnesia which denies the right to live, and ultimately, even to die with human dignity. The same society that rallies with clear conscience against the "atrocities" of South Africa, condemns with such moral indignation a regime we view as ideologically incorrect. Whereas legislation alone cannot eliminate the forces of discrimination, perhaps education can reduce its insidious erosion upon the grain of our society.

## Pro bono possible

As a member of the legal profession,

Pestonik also stands as positive proof that pro bono work is possible despite the demands on the modern attorney. At *Luce, Forward*, he encounters all of the rigid pressures to perform, compete, and amass billable hours. However excusable this hectic schedule may have become for most in the profession, he has made the choice to offer his expertise to restore some sense of normalcy to otherwise chaotic existences.

Pestonik closed with a reminder that there will undoubtedly be those who will tell you that pro bono work is impossible, that there is not enough time to become a successful attorney and help needy people in any significant way free of charge. Unfortunately, for most of Pestonik's pro bono clients, time is quite literally running out.



New Associate Dean, John Minan assumes his duties August 1.

## Minan chosen to be '88-89 Associate Dean

by Dale Giali

John Minan has been chosen by Acting Dean designate Grant Morris as Associate Dean of Academic Affairs for the 1988-1989 school year. Minan will assume the position officially on August 1, but is already involved in assisting Morris to plan for the challenges that will confront the law school in the upcoming year.

The Associate Dean position was recently restructured to involve major responsibilities with the faculty and with faculty committees. The Associate Dean makes recommendations on committee memberships and committee chairs, helps to develop agendas for those committees, and helps to facilitate committee progress. The Associate Dean develops the course schedule and assigns faculty members to various courses and time slots. He handles student-initiated complaints against professors and also handles student appeals from decisions of the Assistant Dean on other academic matters. The Associate Dean also supervises the Assistant Dean and the Records Office.

Minan has an impressive list of educational credentials, including an undergraduate degree from the University of Louisville, an M.B.A. from the University

of Kentucky, a Ph.D. from American University in Washington D.C., and a J.D. from the University of Oregon. In law school, Minan was Associate Editor of the *Law Review* and was on the National Moot Court Team. Chosen for his considerable administrative experience and ability to work well with Morris, Minan says his job description can be summed up, "as doing that which the Acting Dean sees necessary in assisting him in the administration of the school."

Minan first visited USD School of Law in the summer of 1976, was a Visiting Associate Professor during the 1977-1978 year and became a full time faculty member in 1979. Minan has served as Acting Dean during the summer of 1985, and Director of the USD Institute on International and Comparative Law. Minan is currently teaching classes in first-year Property, Land Use Planning, and Comparative Law. Next year he will teach only first-year Property. Minan is married, and he and his wife Margo have three children.

### Congratulations to all the new SBA officers

**President**  
Jack O'Donnell  
**Day Vice President**  
Carol Rosborough  
**Evening Vice President**  
David Manzi  
**Secretary**  
Debra Weber  
**Treasurer**  
Susan McCarthy  
**Honor Court**  
Jean Parraguirre, Ed Sanchez, Mohammed Ghods.  
**Preliminary Examiner:** Robert Swaine  
**2nd Year Day Representative**  
Amy Abdo  
Carrie Blum  
Loren Kleier  
**2nd Year Evening Representative**  
Valoree Bowden  
**3rd Year Day Representative**  
Peter Allen  
Terry Paupp  
**3rd Year Evening Representative**  
Jessica Watson  
**4th Year Evening Representative**  
Patti Garcia

## Scholarship winners to meet donors at luncheon

All student recipients of scholarships from the Law School are invited to a luncheon at which they can meet with the donors of those scholarships. The luncheon will be held on April 20. Invitations have been sent to these students, but those who have not been contacted are encouraged to speak with Barbara Mendelson or Lisa Gunther for details.

The luncheon is designed as an opportunity to bring together scholarship donors and recipients, to allow donors to see whom their money benefits, and to allow the recipients to thank the donors for their generosity.



## Dean Krantz honored at the Annual Alumni Dinner Dance

Approximately 230 people were on hand as Alumni Association President Tom Polakiewitz presented Krantz with the award. The event was emceed by San Diego Police Chief Bill Kolender. Immediately prior to the dinner dance, cocktail receptions were held for the Law School classes of '63 and '68, in honor of their 25th and 20th reunions. Dean Krantz presented members of these classes with anniversary certificates.

USD Law School alumni honored outgoing Law School Dean Sheldon Krantz at the Annual Alumni Dinner Dance held on March 26 at the University Center. The Alumni Association departed from its usual practice of honoring an alumnus of the Law School to pay special tribute to Krantz for his seven years of service to USD and the San Diego Legal Community.

During Krantz's tenure as Dean, the Law School experienced significant growth in its programs, number of students, and prestige. Krantz was involved in the creation of the San Diego Law Center, a joint project with the San Diego County Bar Association to improve the quality and services of the local legal

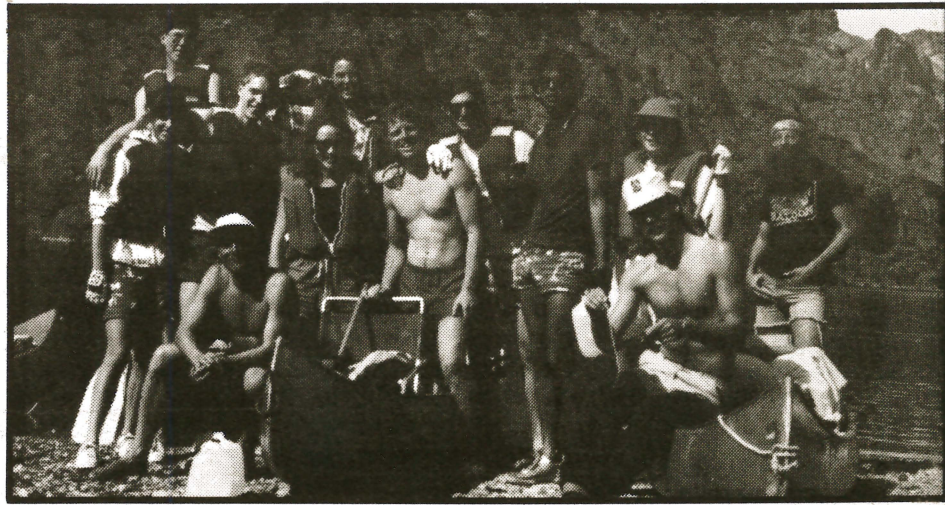
profession.

Krantz also helped establish the Community Service Grant Program at the Law School, through which law students can obtain funding to work for public interest and community assistance legal organizations. In addition, Krantz has been an outspoken advocate of greater professional responsibility and skills training in the Law School.

### Awards Ceremony to be held May 20

On the evening prior to the graduation ceremonies, Friday, May 20, 1988, an Awards Ceremony will be held to honor the law graduates. The ceremony will be held at 5:30 p.m. in the University Center. Immediately following this program will be an outdoor reception on the Dining Deck of the Center, where food, drinks and entertainment will be provided.

Approximately 200 awards will be presented to those to be honored for academic performances and/or service to the law school class of '88. Those students who will be recipients of awards will be notified later in the semester.



### Ballooning to bike repair at Outdoor Adventures

by Kate Diesfeld

USD Law Students are eligible to enjoy the ultimate study break: canoeing, rock climbing, hiking, camping, and even hot air ballooning. All are sponsored by Outdoor Adventures, a campus organization devoted to providing inexpensive outing events for students.

Recent trips include a 4-day canoeing trip to Black Canyon, on the Colorado River. The highlights included soaking in hot springs, steaming in a sauna cave, and lounging in natural mud baths. The weekend provides a break from the law school grind, good companionship, and relaxation.

Outdoor Adventures is also sponsoring the following: a 4-day canoe trip to Mono Lake in the Sierra-Nevada Range; a 9-day rock-climbing, mountain-biking, and white water rafting trip to Utah; a 2-day mountain biking adventure in the Cuyamaca Mountains; a 3-day camping trip to Yosemite; and a 7-day back-packing event to Havasu Falls in the Grand Canyon during spring break.

If you need your bicycle repaired, or just need a spare tube, there is a bicycle shop on campus to conveniently serve you. Combined with the bicycle shop is our equipment rental program which boasts top-of-the-line gear like Coleman, Moonstone sleeping bags, and much more. All of this is housed in the Outdoor Adventures Shop.

For further information, visit Room 135 on the bottom floor of the University Center, or call 260-4709. Take the challenge!

# How to run your own show.

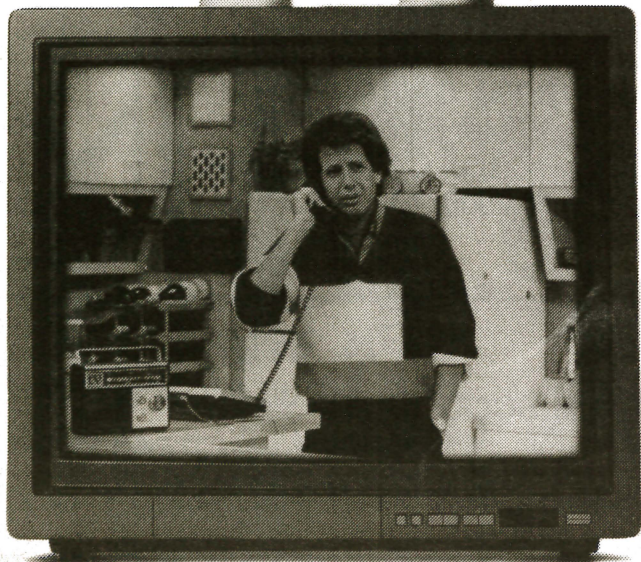


The American Express® Card can play a starring role virtually anywhere you shop, from Tulsa to Thailand. Whether you're buying a TV or a T-shirt. So during college and after, it's the perfect way to pay for just about everything you'll want.

#### How to get the Card now.

College is the first sign of success. And because we believe in your potential, we've made it easier to get the American Express Card right now. Whether you're a freshman, senior or grad student, look into our new automatic approval offers. For details, pick up an application on campus. Or call 1-800-THE-CARD and ask for a student application.

The American Express Card.  
Don't Leave School Without It.™



### USD wins ATLA Western Regionals

USD won the Association of Trial Lawyers of America Mock Trial Competition Western Regionals for the second year in a row. The competition was held in Hawaii from March 4-6. The team of Judith Lesser and Chris Hulbert, and witnesses Mark Pachowicz and Lee Hulbert, is coached by Professor Corky Wharton. They then competed against twelve other schools in the nationals on April 8 in Washington, D.C.

The competition requires that the contestants put on an actual three hour trial, similar to the Lawyering Skills II exercise. Witnesses are examined, evidence is presented and opening and closing arguments are made. The entrants are required to represent both the plaintiff and the defendant.

Last year was the first time USD competed in this event. The school, a last minute entry, was asked to compete because the event was held in San Diego. The students are chosen by Wharton from the Advanced Trial Advocacy class. Wharton looks for students possessing certain characteristics and skills. While Lesser has won Moot Court Competitions, this had no bearing on the selection process.

Obviously, Wharton knows what to look for. After choosing the team, they all get together and brainstorm until they agree on the theme of their case. Wharton contends that this is the most important part of preparing their case. They work on opening and closing arguments that tell a story and are interesting and compelling. Finally, they prepare a direct examination that Wharton feels is the key to winning.

This strategy and preparation has paid off. Only one other school made it into the finals from last year. Ironically, that school is William Mitchell School of Law, coached by Roger Heydock. Heydock was a visiting professor here last year and taught lawyering Skills II and ATA.

Wharton and Heydock are currently collaborating on a trial practice guide for attorneys. Hopefully, all their knowledge will assist in the team's efforts next month.



# STUDY GROUP DISCOUNT

Five Students Can  
Enroll Now For The  
Price of

**\$925 EACH**

REGULAR COURSE TUITION \$1,095

Available Until April 15

For Further Information  
Contact A Student Rep  
Or Call Us At

1-800 2 PAS BAR  
(272-7227)

**SECOND OPTION**  
WE CONTINUE TO HONOR  
**BAR/BRI'S ENROLLMENT**  
PRICES AND PAYMENTS  
**PLUS \$75 OFF WHEN YOU ENROLL**  
IN A GROUP OF 5 OR MORE.

OUR PROGRAM INCLUDES—  
6 HANDS-ON MBE WORKSHOPS  
6 ESSAY ANALYSIS WORKSHOPS  
9 PERFORMANCE TEST SESSIONS  
FULL 3-DAY SIMULATED EXAM  
AFTER REVIEW IS COMPLETED!  
COMPARE TO BAR/BRI ADD-ONS

## BARPASSERS<sup>SM</sup>

SOUTHERN CALIFORNIA  
1231 Santa Monica Mall  
Santa Monica, CA 90401-1307  
(213) 394-1529

NORTHERN CALIFORNIA  
138 McAllister Street  
San Francisco, CA 94102-4996  
(415) 626-2900

This offer excludes all other credits and discounts.



# USD's International Law Program offers students the world

by Mel Epley  
Managing Editor

The University of San Diego's International Law Program offers students the opportunity to live and study abroad in some of the most culturally enriching universities in the world. Law students from USD and all over the United States and Canada can study Public International Law and Comparative Law Systems, while living in and experiencing the culture of a foreign country.

In earlier issues *Motions* published articles on the programs in the Soviet Union and Poland, and Mexico City and Guatemala. There are also exciting programs in London and Oxford, England; Dublin, Ireland; and Paris, France.

The programs in England are excellent. Law students from the U.S. can go back to their common law roots and study the differences between the two countries, while experiencing first-hand the culture and traditions of this historic land. These programs are great for those of us limited to mainly one language, English (although you may find the Englishmen don't believe we speak the same tongue at all). Another plus of these programs is living

close to, or in, the city of London. If you are remotely interested in history you will go nuts in this city, but even if you are not, London's contemporary night life can't be beat.

Dublin, Ireland also has a program with USD which may interest many students. This program is unique in that it allows students to study international conflicts in the backyard of the ongoing conflict between Ireland and England over the independence of Northern Ireland. Students can also experience the history and deep-felt pride of the Irish people while living in the Irish capital.

For those with more of a continental flavor and the desire to live in one of the world's most romantic cities, the program in Paris is right for you. Centrally located Paris allows for weekend adventures to neighboring countries and extended vacations on the European continent before and after classes begin. Again, students can study international and comparative law while living in a different political system. The only drawback is that some Parisians think French is the only language that should be spoken, and they have their own peculiar dialect. If you don't mind the



Irish couple starting their marriage on a bicycle built for two in Dublin, Ireland.

occasional snub for your inability to communicate, Paris may be the place to spend your summer.

Some of the programs also provide for one-on-one teaching with foreign teachers called tutorials, or placement with local

lawyers. All the programs are taught by highly qualified professors from the United States and the countries the programs are in. For more information, see Sue Coursey or Professor Lazerow in room 310 of More Hall.

## Nightmare at Lake Powell

(Continued from page 7)

Sunday night we were back at what we affectionately called "the Slab"—our homey little concrete lot. We stayed up tuning in weird radio stations from all over the western United States. Last Wednesday night we were in Las Vegas, casino-hopping and feasting on 50-cent Heinekens and 75-cent shrimp cocktail. Thursday night we spent camping at the Grand Canyon. But now we were relegated to the Slab, totally helpless, with no way out.

We spent Monday in the Page Park reading and sunbathing. Most of the other occupants of the park were young Navajo men with lots of time on their hands and not much to do so they hung out in the park and drank. Despite basically wanting to keep to ourselves, we made friends with some of the locals. One fellow told us that his wife had just had a baby and he was still celebrating which was obvious. He asked us if we wanted to take a ride out to the reservation, to get some "squaws" and do some peyote. We appreciated the offer, we said, but we thought we ought to stick around and monitor the progress of our car. There would be no squaws or peyote on this trip.

On Tuesday the transmission man ordered parts which he needed, which would be shipped in time for us to hit the road by Thursday. Brian was on vacation from work, and he didn't want to blow the whole week, so he decided to fly back to New Jersey. I walked him to the Page Airport. It was kind of a "Mom and Pop" style airport—the woman who processed your tickets also checked your bags, put little wooden blocks under the wheels of the planes when they landed, the whole works.

At least Brian was out of this hellhole. While at the travel agency I explained our plight to a woman who worked there, and she offered to put me up if my car wasn't ready that day. It wasn't, so I spent the night at her trailer. On Friday, I was ready to pick the car up and head East. Dan informed me that the transmission man was putting things back together when he realized he needed another part! Naturally, that part, like all other Rabbit parts, existed nowhere in the state of Arizona, so it had to be shipped in next week. Ah, another weekend in Page!

I spent a lot of time with Bill Pennock, who had sublet the 2nd bedroom in the trailer I was by now well ensconced in. Bill was a 250-pound biker with a long

ponytail, huge Cadillac, and a greyhound. Bill had moved to Page to sell miracle products known as "Rainbow Hydroponic vacuum cleaners"—"These things'll do everything!". He had a lot of free time during the day, and so did I, coincidentally, so we went on a couple of hikes to see some local rock formations, we raced his greyhound with the Cadillac in the desert, and did a few other things to pass the time.

By the next Monday, nothing had happened, except that the auto part was "on order." Dan, in his own sensitive way, tried to make me feel better:

"If this was a Chevy, ah coulda gotcha outta here last week." I didn't say anything as I hadn't forgotten our respective roles.

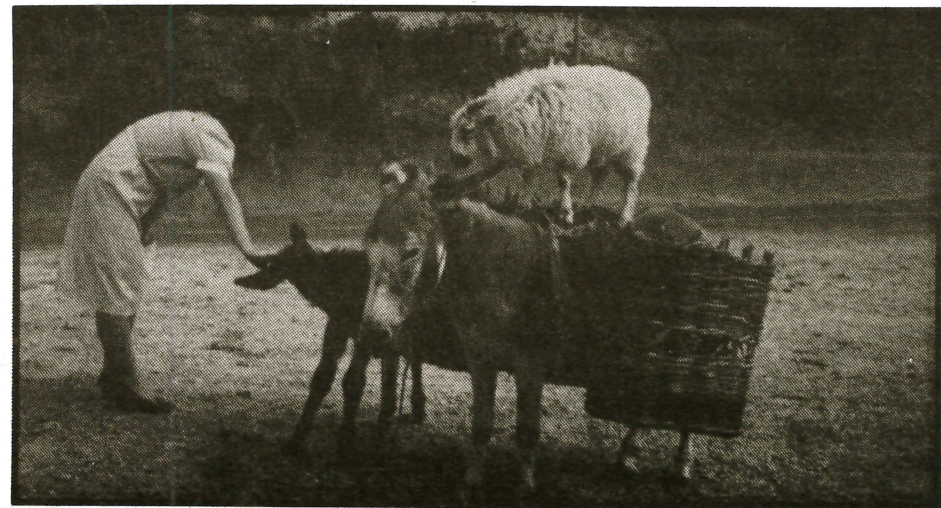
By the middle of the second week I had become actively involved in the effort to get the necessary auto part into the general vicinity of Page. I had called the distributors and the airlines, and things were on schedule to bring that sucker in on Thursday. When I went over to D&J Auto Thursday afternoon, Dan told me, "Bad news, Tom. They lost your part." I smiled, but Dan told me he wasn't kidding. Before breaking down, I decided to call the Page Airport to see what happened. They had by then found the part, and it was on its way to the garage.

I had money wired from both coasts, and I had postponed my job two times already, but I was finally ready to roll. This was Friday, a full two weeks after the car had died in the desert. I decided to drive back to San Diego and leave the car for the summer, instead of risking another breakdown.

I left Page Friday evening, arrived in San Diego Saturday evening, and flew to New Jersey Sunday morning. My bags were late, of course, so after eating dinner at my parents' house in Jersey City we went back to Newark airport to get the bags. They put me on a train to Trenton, where my job was, and I arrived in Trenton at 10:00 Sunday night, dazed and confused. My brother Mark met me at the station with a cold beer, a gesture which I'll never forget.

On my first day of work Monday morning I fell asleep at a settlement conference with a room full of attorneys, scientists, and assorted parties.

After graduation, I'll be driving back to New Jersey to take the Bar and start a job. Anybody need a lift? Don't worry, I've got a new car. It's even American. They have parts for it all over the country. And if anything happens, I can handle it. I'm tough. I've been to Page. And back.



A Dublin participant separates the sheep from the goats (and the donkeys) in the Ring of Kerry.

## Prospective student seminar attracts 575

The USD Admissions Office conducted a highly successful Informational Seminar for prospective students on February 27. The purpose of this event, which attracted over 575 visitors, was to provide insights on the benefits of a legal education.

Dual programs began at 10:00 a.m. in the University Center and at Manchester Conference Center with introductions by Kelly Salt and Kate Diesfeld. Professor Herbert Peterfreund delivered a lecture entitled, "The Value of a Legal Education," followed by Dean Sheldon Krantz's lecture entitled "The Future of the Legal Profession." Other speakers included Professor Terry Player from the Legal

Clinic, Richard Osborne from the Financial Aid Office, and Mary Ann Salaber from the Career Planning Office.

Alumni Tom Polakiewicz shared memories and war stories from his law school days, and Professor Darrel Bratton conducted a mock class demonstration. The program was followed by a tostada buffet on the patio of the University Center.

If you have friends or family who are interested in becoming acquainted with USD, its professors, students and alumni, encourage them to inquire about our next Informational Seminar. Personal tours and interviews are available by appointment.

## D.C. judge speaks at USD lecture series

(Continued from page 1)  
mittee when he was appointed to the D.C. Court of Appeals. An aide to one of the members of the committee met privately with the prospective judge and asked questions about an absurdly remote connection to a "pro-communist" group under investigation during the 1950s.

When asked about the information source for names of acquaintances from 25 years before that Mikva did not remember, the aide said it was from the HUAC files. They were sealed in the National Archives, but after copies had been made.

Mikva appreciated the irony of the threat of un-Americanism around every corner which encouraged HUAC, but he warned the audience that we are not so far away from those investigations. "Outside threats can never be fully eliminated. But as long as they exist and there is some outside force for the public to fear, the possibility of another HUAC or McCarthy era is all too possible."

taken from *Speech and Law in a Free Society*, written by one of Nathanson's colleagues at Northwestern; "The 'servant of the people' acquires an appetite for power which, if unchecked, transforms the servant into master."

The audience, comprised of faculty members, attorneys, and students was then invited to ask questions. During this session, Mikva expressed views on topics ranging from World War II to modern legal education. His view of the latter topic is of particular interest to law students. The case method, he believes, falls short of its goal because the cases are too long. He explained that judges need to confine themselves to writing brief opinions.

After the lecture, USD hosted a dinner in the faculty dining room. Nathanson's widow, Leah, was honored at the dinner, and Professors Hugh Friedman and Robert Fellmeth were cited for their service to USD Law School and to the legal community. Early the next morning, Judge Mikva attended a breakfast reception for the students.



## Two students included in search committee to find new Dean

by Thomas Mauriello  
Legal Articles Editor

A Dean Search Committee has been formed to find a replacement for outgoing USD Law School Dean Sheldon Krantz. Krantz will step down at the end of this semester, and Professor Grant Morris will serve as Acting Dean next year. The Search Committee, chaired by law professor Lester Snyder, had its first meeting on April 5.

The Committee plans to attract applicants through a number of methods, including advertising in education journals and legal publications, writing letters to selected institutions and individuals, and through informal networks of law educators and lawyers. The Committee plans to begin interviewing candidates next Fall.

The Committee expects the search to take roughly 15 months. The average tenure for a law school dean is three-and-a-half years and at any given time between 25-30% of law schools nationally are in the process of looking for a dean. Thus, the process is competitive and time-consuming.

In addition to Snyder, the Committee is composed of the following representatives of the Law School community: Professors Darrell Bratton, Nancy Carter, Kevin Cole, Hugh Friedman, Bert Lazerow, Terry Player, and Donald Weckstein; Provost Sister Sally Furay; alumnus and U.S. Attorney Peter Nunez; Superior Court Judge Christine Pate; evening law student Tina Gallegos; and day law student Greg Tosi. Justice Howard Weiner, of the 4th District Court of Appeal, will be added in the Fall.

This is an important time for USD Law School. The Law School's reputation has been increasing quickly, applications have been up significantly and it is on the verge of becoming a "national" law school. It will take a talented administrator to manage the growth of the Law School wisely.

Asked if the Committee had any specific goals in mind for the best candidate for the job, Snyder commented that the Committee will be looking for someone who combines the talents of administration, scholarship, teaching and fundraising. He added that the Committee will have to wait for applications to come in before being able to make specific decisions as to how to rate these various qualities.

Although the exact procedures have yet to be worked out, law students will be able to meet with candidates who are invited to campus for interviews next fall. Students with suggestions or concerns about the selection of the new dean should speak with members of the Search Committee, particularly the two student members.

## Hands on experience through center for Public Interest Law

by Joy Kolender

As part of her studies at the Center for Public Interest Law, USD third-year student Rena Hutak has been monitoring the state Speech Pathology and Audiology Examining Committee for two years. Through regular meeting attendance, Hutak became acquainted with a woman whose application for licensure as an audiologist had been rejected by the Committee some three years earlier. She had made an honest mistake on her application form, and was told that she had to make a personal appearance before the Committee to explain her error. However, she was repeatedly frustrated because the Committee meets only once every three months, and on several occasions the Committee lacked a quorum and was thus unable to vote on her case.

After two years of frustration, the applicant sought Hutak's assistance. Hutak presented the applicant's case at the Committee's February meeting and persuasively argued that the applicant's error was partially due to confusing wording on the application form. The Committee agreed to allow the applicant to submit a new application and she expects to be licensed soon.

As part of his internship with the Center for Public Interest Law, USD third-year student David Berman was monitoring a meeting of the state Board of Optometry. At the meeting, the Board decided to reconsider at its next meeting a previous decision to require CPR certification as a condition of licensure and license renewal for optometrists. The Board members expressed concern about the risk of contracting contagious diseases, particularly AIDS.

After listening to the Board's discussion, Berman feared the Board would eliminate the CPR certification requirement for optometrists. He began to make telephone calls and ask questions.

As a result of Berman's inquiries and efforts, a representative of the American Heart Association's CPR certification program appeared at the Board's next meeting. The representative convinced the Board of the importance of CPR training for optometrists and described several precautionary measures which can be taken to prevent the spread of disease. After the presentation, the Board affirmed its decision to require CPR certification for optometrists.

The experiences of Hutak and Berman are representative of the active role which may be taken by students who participate in the Center for Public Interest Law. Center students take a yearlong, four-unit course entitled "California Administrative Law and Practice," taught by Center

Director Professor Robert Fellmeth. As part of the course, each student monitors two or three of California's sixty regulatory agencies which include the State Bar, the Public Utilities Commission, The Department of Banking, the Athletic Commission, the Coastal Commission, the Board of Medical Quality Assurance and Cal-OSHA, among others.

Students attend agency meetings, monitor and analyze their activities, interview agency officials and licensees, and track rulemaking, legislation, and litigation affecting their agencies. Students submit two articles on each of their

agencies each semester, which are published in the Center's quarterly journal, the *California Regulatory Law Reporter*.

Current first-year day students interested in participating in the Center should preregister for "California Administrative Law and Practice," and submit a resume, short statement describing why they are interested in the Center, and a list of six agencies which they would prefer to monitor to the Center by May 1, 1988. The Center is located in Room 205 of Guadalupe Hall. For further information, please contact Center staff counsel Julie D'Angelo.

## Summer school courses offered

by Gary Fielder

No summer job?  
Extra \$2000.  
Propensity for pain?

Summer School starts June 13. Class selection is on a first-come first-serve basis. The cost per credit hours is \$320.00. Schedules are available at the Records Office.

Beat the Rush . . . register now. The semester will last for eight weeks. Classes are normally two hours long, and will meet as many times a week as credit is offered, e.g. two credits—two classes.

Visiting Professors include Prof. Michael Berch from Arizona State, who will teach professional responsibility; Prof. Willard H. Pedrick, also from Arizona State, will instruct Tax I; and

Prof. Arnold N. Enker from University of Minnesota, and N.Y.U. School of Law will teach professional responsibility in the evening division.

Full-time students may not take in excess of seven credits without written permission from the Dean's office. Those students who schedule more than five credits must register for at least two during the day. A \$100 deposit is required upon registration. The entire deposit is refundable if a student withdraws by May 1, 1988, and \$50 is refundable if the student withdraws by June 1, 1988. The remainder of tuition is due on June 13, 1988.

Any questions concerning the Summer School program should be directed to Professor Weckstein, who will be acting dean during the summer.

### LAW CLERKING THIS SUMMER?

GET A <sup>P</sup> <sub>J</sub> U M ON THE COMPETITION!

"LAW CLERKING: A Handbook for the General Litigation Law Clerk"

by Kay Lynn Kell

is NOW available for only

\$7.95 plus tax with this ad

ORDER TODAY!  
Gem Publishing Co.  
P.O. Box 34692  
Diego, CA 92103  
(619) 234-2233

## Graduation Party!

Prior to the graduation ceremonies, there will be a number of special events held to honor the graduates. First, the Student Bar Association will be sponsoring a graduation party on Thursday, May 19, 1988 at Tijuana Tilly's in Mission Valley. The party will begin at 9 p.m.

Students interested in attending the Graduation Party may purchase tickets at the University Center Box office for \$5.00 per person beginning April 7. The tickets will be available first to graduating law students and their guests only; an additional 500 tickets will be on sale to others interested in attending after May 1.

The tickets entitle the students to an "all you can eat" buffet, one Corona beer, Long Island Iced tea, or a well drink, and to the disco or main ballroom where a disc jockey will be performing. Directions to Tijuana Tilly's will be printed on the back of the tickets.

**Friday, May 20th**  
**Awards Ceremony**  
**5:30 p.m. — University Center Forum**

**RECEPTION on DINING DECK Immediately Following**  
**All Graduates Parents and Friends Welcome**



# Docket

## SBA elections postponed for poster violations

by Mark Norman

The Student Bar Association elections, originally scheduled for March 8 and 9, were postponed and held on March 15 and 16. In the middle of the first day of the elections, March 8, SBA President Lesley Clement shut down the voting booths after receiving a complaint regarding possible campaign violations.

A complaint was made to Clement alleging that several candidates had violated the campaign rules by flooding the law school with flyers and posters, flying a banner and balloons in the parking lot and sponsoring a keg party in the More Hall Courtyard.

SBA campaign rules which were posted on February 22 limited campaigning for each candidate to a total of twenty flyers and two posters to be hung only on bulletin boards in the bottom floor of More Hall. Candidates were also allowed to announce their candidacy, but not campaign, in the classrooms.

In response to the complaint, Clement postponed the elections and scheduled a SBA meeting for March 11 to determine what was to be done in response to the campaign violations.

In the meeting it was decided that the candidates who had violated the rules would be allowed to remain on the ballot. Any candidate who felt he or she was personally hurt by the campaign violations were allowed to go back to the classrooms to announce that they were still in the race.

Clement believes that no one was harmed by these campaign violations with the possible exception of the candidates themselves who committed the violations. Most law students are sophisticated enough to become irritated rather than impressed at the sight of the same people's faces plastered all over the law school walls.

The rules limiting campaign flyers and poster were enacted this year to be economically fair to all candidates and to keep the law school looking clean. Clement stated that next year more specific campaign rules would be instituted.

## La Raza ends year with Awards Banquet

by Erick Solares

Once again, another academic year comes to an end. For those of us involved with the La Raza Law Students Association, however, this was not just "another year." This was the year in which we dared to do it all and did it well.

We began the year by organizing several workshops for our first-year members. The workshops emphasized class preparation, legal writing and exam taking techniques. We also held a workshop to prepare students for the First-Year Moot Court Competition. Continued reliance on our Buddy Program, which partners upperclass members with first-years as personal advisors and tutors, was also crucial in helping our first-years attain academic excellence.

In February we hosted the state-wide La Raza Conference. The Keynote Speaker was former California Supreme Court Justice, Cruz Reynoso. Attending

the Conference were representatives from seven California law schools, junior and senior High School students and many community members.

This year we organized a Junior High and High School visitation program. We visited several local schools informing hispanic students about the benefits of a college education. We emphasized how important it is to get good grades and tried to provide different alternatives in financing their education. The cooperation and support we received from the different schools was very helpful and the response from the students was extremely encouraging. Perhaps we CAN make a difference.

La Raza took the initiative, along with SBA, in organizing the Committee of Student Organizations (COSO). COSO's purpose is to enhance communication and participation among the many law school organizations. An example of the

high quality of work which results when all organizations communicate and cooperate with each other was the First Faculty/Staff Appreciation Breakfast, an idea proposed by La Raza and SBA.

As in the past, La Raza continued to assist the administration in the recruitment and admission of highly qualified hispanic students. Although we disagreed with the administration on several occasions, we always managed to find common ground. I'm sure that we will both continue to benefit from our relationship.

On Apr. 16, we held the first La Raza Awards Banquet. We honored our outstanding members for their academic achievements and service to the organization. We also honored our graduating Seniors. Joining us were other student leaders, friends and family members. Also recently, we sponsored an Immigration Forum in conjunction with the International Law Society.

Next year, several La Raza members will be involved in a variety of activities. One of our members was selected to serve on the Dean Search Committee. Another member was selected to serve as Chairperson of the Statewide La Raza Board of Directors. One member was elected to serve on the SBA as representative and another will serve on the Honor Court.

We did many things this year of which we are very proud. However, we could not be more proud of the fact that we established ourselves as a first-class organization. In the process, we did away with the myth that La Raza is an organization of black-haired, spanish-speaking people. As many of you have discovered, our door is open to everyone, even those of you who SHOULD have a special interest in our group.

Lastly, it is only fitting that we thank all those who helped us throughout the year. We thank Dean Krantz, Professors Vargas and Brooks, Rosemary Esparza, the entire Law School staff (you're great); Lesley Clement, Jack O'Donnell and Dan Hogan of SBA, Dan LeVine-Sidebar, Starr Lee-Motions, Dave Olan-International Law Society, Gary Saunders-Intramurals, Terry Wiley-BALSA and Sherri Salls-Phi Delta Phi. A special thank you to Tio Leo, guardian of some of our most precious memories.

Our best wishes to all Graduating Seniors.

## MHPILF takes in \$12,100 in pledges

The More Hall Public Interest Law Foundation is pleased to congratulate the students, faculty, administration and staff of USD because together we raised \$12,100 in pledges to fund public interest law internships. This will be enough to fund four internships in the summer of 1989. Money will be collected in the summer and fall of 1988.

The Third-year Class showed the strongest support by pledging \$5995. The Second-Year Class raised \$2500, the First-Year Class donated \$1785, and the Fourth-Year Class came up with \$165. The Faculty pitched in \$1655.

For those students who made the suggested pledge, MHPILF raffled off bar review courses donated by BarPassers. Laura Norris MacPherson won a free full BarPassers course and Kristine Woodward and Kelly Keenan each won a certificate for half off course tuition.

MHPILF will fund its first internship this summer, with the assistance of the Financial Aid Office. One student will be funded to work with Legal Aid in San Diego. Twelve students have applied for the internship, and by the time this is published the selection will have been made by the MHPILF Directors and the MHPILF Faculty Advisors.

MHPILF again thanks everyone for their enthusiastic support and reminds you that if you didn't get a chance during the official drive, it's not too late, we'll still accept your donation or pledge.

—Rusty Nichols

## PDP's third Barrister Ball successful

Phi Delta Phi wishes to express its gratitude to all those people who made the Barristers' Ball such a success. It was a wonderful evening. We look forward to seeing you next year at the Third Annual Ball.

Phi Delta Phi will be an active part of USD Law School next year. We encourage your suggestions on events or topics you would like to have us sponsor. We appreciate your input and look forward to an exciting and informative 1988/1989 Law School year.

—Judith Crandall

## 300 graduate on May 21 with J.D.

On May 21, 1988, Some 300 law students will be joining the ranks of USD's nearly 5,000 law graduates. This will be a time for these students to join with their families, friends and fellow students to celebrate and to recognize their accomplishments.

The graduation ceremonies will be held at 10:30 a.m. in the campus stadium. The Honorary Degree Recipient and keynote speaker of the ceremonies will be John Ely, Dean of Stanford Law School.

Directly following the ceremonies, a reception will be held at the University Center for the graduate and their guests. Since this will be one of the last opportunities students will have to see one another students are encouraged to stop by and share a glass of champagne with the faculty, staff and administration before celebrating individually with their families.

## Planning ass't hired

Sharie Johnson, a 1987 USD graduate recently took on the Assistant Director position at the Career Planning office..

Johnson worked five years as a personnel administrator and was a USD summer conference coordinator for two years.

## Faculty Auction held by Women's Law Caucus

by Misty Colwell

On Thursday, April 7, the Women's Law Caucus held its 3rd annual Faculty Auction. In front of a fluctuating audience, Grant Morris — resplendent in his fish tie and official gavel, auctioned off 23 donations from members of USD faculty and staff. Although the crowd was somewhat reluctant, Morris was able to coax generous bids for several items.

The priciest bid was for Hugh Friedman's lunch for one student at Mr. A's and a set of Friedman's California Corporations Practice Guide. Lane Webb won this with the high bid of the evening at \$115. A Porsche ride to Borrego Springs with Frank Engfeldt, including a country club lunch, sold for \$90 to John Abbot.

Perhaps the most spirited bidders competed for a dinner at a French restaurant with Joanne Conaghan, a visiting professor from Kent University in England. Richard Cornell took this donation for \$60. Surprisingly, the auction's traditional bid leader, Dean for a Day went for only \$76.

Professor Cole's donation was one of the most complicated, but he explained that he and another professor would treat two students to a round of golf and include a modest lunch if the students won. Professor Alexander also donated a round of golf. Several professors opted to donate meals which ranged from gourmet to picnic. Terry Player and Laura Berend will prepare and serve a candlelight dinner to four people in Berend's Coronado home. Allen Snyder will serve four people a "home grown meal" with wine rumored to exceed the opening bid of \$30. Professor and Mrs. Hartwell will take two students for a walk through the woods in the Cuyamaca area where they will picnic in a meadow. The Hartwells will reveal their "spiffy new kite," and the professor will serenade the group with the Kenya National Anthem sung in Swahili.

This year, Women's Law Caucus will award the donor of the most creative item. Professor Paul Wohlmuth's meditation session and Professor Janet Madden's pen and ink drawing will receive this honor. The donor of the most expensive item (Friedman's lunch and books) will also be honored.

The auction's receipts totaled over \$700. Chair Debra Gravo plans to donate a portion of the proceeds to San Diego Youth Involvement's battered women and children residence facility. Another portion will given to More Hall Public Interest Foundation to assist a woman student in any organization or to help fund a public interest organization which deals with women's issues.

## The Critical Edge

### INTERNSHIPS Designed For Your Success

#### London

Spring & Fall Semesters  
Summer Internships  
Feature Film Project

Courses & Internships  
for College Credit:  
Old Bailey, Parliament,  
Lloyds, barristers,  
solicitors, museums,  
newspapers, theater,  
BBC, public relations,  
banking, government.

#### Israel

#### Work & Study Tour

Contact: Janet Kollek, JD, Dir.  
American Association  
Of Overseas Studies  
158 West 81 St., No. 112  
New York, NY 10024  
Toll free 800-EDU-BRIT  
In NY State 212-724-0804



## Library installs new study carrels

by Nancy Carter  
Law Library Director

New Law Library study carrels—promised for several months—made their debut over Spring Break. Thirty carrels were installed. These handsome oak carrels will be used throughout the new building. This preview purchase was made to give current students a chance to enjoy one small taste of the future law library building improvements.

The study carrels were selected specifically for law student use. The main features are an over-sized work surface, extra-long shelf space to accommodate the multiple volumes often needed in legal research, tall side panels to provide Privacy and reduce distractions, and a task lamp to ensure good lighting (limited electrical outlets in building prevent us from plugging in all the carrels.). A power column further diversifies the future usefulness of the carrels as computer work stations, tape listening, and for other applications requiring electrical power.

Accommodation of this new furniture required some drastic rearrangements of the Law Library. Maps of the "new" second floor are posted. While making space for the carrels, the Library created rooms for growing sets that were out of shelf space. This pressing need for growth space is the main reason that federal sets were moved upstairs. We realize that the shift is not convenient for everyone, but at this point the building is too crowded to allow the luxury of ideal arrangements—we simply must find ways to shoehorn a growing collection into inadequate space while awaiting the new building.

Finally, we realize that moving books and assembling furniture is noisy and disruptive. However, with a 108-hour operating week, the Law Library has no option to do work after hours (no one wants to move books between midnight and 8). Our choices are to close entirely, or to stay open and expose users to the disruption. There was too much work for



photo by K.L. Chapman

one week of Spring Break, so we started early. The goal was to finish the project entirely by the end of March and to

present a quiet post-Spring Break Library was met. Thanks for bearing with us. Enjoy the new carrels!

## Compulsory screening constitutionally right or invasion?

(Continued from page 7)

society. This case has a dual effect. On the one hand, it specifically allows a woman to have an abortion within a certain circumscribed gestational period. More importantly, though, *Roe v. Wade* dramatically limits the ways in which legislatures may regulate or proscribe abortions. Here, the legality of compulsory MSAFP genetic screening can, presumably, be determined by weighing the governmental interests for having such a policy against the inevitable encroachments upon a woman's personal privacy.

The governmental interest in having mandatory MSAFP screening programs seems to be one of prevention and monetary savings. Arguably, by instituting such programs the government hopes to eradicate neural tube disorders, as well as save federal resources in the process. These governmental interests, would be invalid if in fact they restricted the marital union, placed constraints on procreation, or were instituted in such a way as to coerce pregnant women on matters of abortion. As described earlier, though, information regarding abortion would probably only be indirect, allowing women to make their own decisions on these matters.

However, if screening program representatives, either accidentally or by specific instruction, stepped over the fine line of persuasion and entered the forbidden zone of coercion, then by the standards set forth in *Griswold v. Connecticut*, those representatives would, presumably, be said to have infringed upon a constitutionally protected "zone of marital privacy" as well as to have violated the patient's "informed consent."

The right to personal autonomy first articulated in *Roe v. Wade* emphasizes, as its first priority, the safeguarding of the pregnant mother's life. With regards to the MSAFP screening program, the relatively safe and non-intrusive techniques of inquiry such as blood tests, ultrasound, and sonography seem to serve the government's compelling interest in protecting a potential human being while limiting their intrusion upon a woman's bodily integrity. However, the women in the program who are targeted as having high serum levels are then required to endure amniocentesis. Here, the constitutionality of a compulsory MSAFP genetic screening program is brought into question since the amniocentesis procedure, as described earlier, seriously intrudes into a pregnant woman's zone of privacy.

### No guarantee against risks

Additionally, amniocentesis is not a technique without risks, no matter how small, to both the pregnant mother and her "potential" child. In fact, it has been estimated that there is a .5% chance that

the fetus will be spontaneously aborted during such a procedure. Under these circumstances, then, not only is a woman's "right to be let alone" and "informed consent" brought into question, but a perfectly healthy fetus might be spontaneously expelled from a woman's body as a severe consequence of the government's interests.

Amniocentesis raises other important issues. Having normal amniotic fluid alpha-fetoproteins does not necessarily guarantee the absence of neural tube disorders or other genetic anomalies, but approximately 94% of neural tube disorders and nearly all open defects will be discovered in utero. Here, false negatives are possible; even with a compulsory screening program there exists the possibility that an affected fetus will slip through the genetic screen. On the other hand, in terms of disorders such as closed spina bifida which are less likely to be severely handicapping, a child capable of a meaningful existence may be prevented from ever experiencing the pleasures of life outside its mother's womb.

Under these conditions, the patient who is informed that the fetus has closed spina bifida may elect to terminate the pregnancy, destroying a fetus that could have otherwise lived a relatively normal and productive life. Also, because the targeted serum levels may be set too low, a number of unaffected, healthy fetuses might be discarded unnecessarily. In any event, a compulsory screening program such as MSAFP appears to advocate abortion. Why else would the federal government make such a large monetary investment in a program whose primary aim is to detect/prevent fetal abnormalities for which there is no cure, other than abortion?

From an ethical point of view, amniocentesis challenges the morality of discarding a viable fetus. By the standards set by the medical profession and *Roe v. Wade*, the fetus becomes "viable" at the beginning of the third trimester of pregnancy. In layman's terms, at this gestational point in time the fetus has the capability of meaningful life outside the mother's womb. Therefore, after viability the state has a compelling interest in protecting the fetus.

The Court may regulate or even proscribe abortion where there is a compelling governmental interest in protecting the fetus. Even in the face of this compelling interest, however, abortion must be permitted where it is necessary to preserve the life or health of the mother. Here, since the results obtained from amniocentesis tests are not usually received before the third trimester of pregnancy, the ethical issues emanating

from abortion are compounded by the legal viability of the fetus. One must say that the mother's psychological well-being is at stake and an abortion should therefore be allowed. Ethically, however, abortion at this point in time is not only physically dangerous and emotionally traumatic for the pregnant mother, but some might argue that it is equal to murder in the first degree.

### Ideal Solution?

In the final analysis, while prenatal diagnosis coupled with the abortion of affected pregnancies is a useful tool in the management of families afflicted by such abnormalities, it is ideally not the answer. It would be much better if, in fact, neural tube disorders were prevented from ever occurring in the first place.

As a public policy option, even though compulsory screening programs may be beneficial in that they usually prevent afflicted children from ever being born, they should not be allowed because rights of abortion, personal autonomy, freedom of choice, and informed consent are inevitably violated as a result of the government's desire to prevent birth defects (protect a potential child) in this manner.

As expressed by many commentators, preventing birth defects (protecting potential children) is a legitimate goal for governmental involvement since society has an inexorable desire to protect the welfare of all humankind. Nonetheless, according to some scholars, since a significant portion of the American population believes that abortion is immoral, and because of the reverence that is placed on autonomy in reproductive choices, a program of compulsory prenatal diagnosis is presently not a viable public policy option.

It appears as though these types of programs are premature, and should not be used on a widespread basis (especially not compulsory) until, of course, their speed and accuracy are dramatically increased. The difficulties with maternal serum screening lie less in the proportional analysis, which standard requirements including controls might be correct, but more in the interpretation of their results. In order to have the utmost accuracy in terms of results, a precise measurement of both gestational age and the concentration of maternal serum is an essential prerequisite for each participating laboratory.

Lastly, but by no means least important, before widespread screening can even be considered, there must be trained professional personnel to advise physicians, to counsel patients regarding the interpretation of their results, and to explain (not coerce) the options/risks to the pregnant women during every step

of the program. In the meantime, voluntary programs should be instituted as a means by which to ensure that all pregnant women have an equal opportunity to utilize these technological marvels. More importantly, though, we should subsidize research programs whose aims are at primary prevention (i.e., programs designed to find the primary cause of neural condition) rather than at secondary intervention.

## Law students sponsor area picnic

by Mel Epley  
Managing Editor

On March 25, the law students at USD were given the opportunity to escape from the everyday monotony of law school and enjoy a day of sun and fun with the children from the Linda Vista community. Through the efforts of Jack O'Donnell and Andy Gruninger, a picnic was set up with the students from Kit Carson and Holy Family Elementary schools.

Over 70 law students and 40 children met on the lawn behind Copley Library between noon and 3:30. The kids were paired up with law students who acted as partners for the day's events. Included in the activities were soccer and football games, three-legged, wheel barrel, and relay races, as well as the ever popular "duck-duck-goose."

When they were not participating in games the kids had the opportunity to talk to the law students about a wide range of topics, from kite-flying to what we do in school. There was also plenty of food and beverages to keep everyone happy. Thanks to the \$2 donation by participating law students and a contribution by Barpassers, there was 200 hot dogs, 20 cases of soft drinks and plenty of popcorn to last the entire afternoon.

All the students had a great time, running, laughing, and playing with people they usually don't get a chance to interact with. The kids of Kit Carson and Holy Family also seemed to enjoy themselves. In all, this picnic was a huge success. It allowed the law students to take a break from their studies and to realize that law school isn't everything. Life is too short to spend in Kratter Library: take a break and spend some time with the things that matter in life: children, friends, fun, and sun (not necessarily in that order.)

Next year, O'Donnell and Gruninger plan on having a picnic with the community kids each semester. The picnics are a good way to participate in a non-competitive law school function and get to know your fellow students while bettering the law school's relations with the community. Hope to see you all out there next year.



## Moot Court competes in Hawaii tourney

In February, USD's Jessup International Law team traveled to Honolulu, Hawaii to compete in the Western Regional Round of the Jessup International Law Competition. Twenty teams from throughout the west coast area competed in this event, including teams from UCLA, USC, McGeorge, Loyola, Washington and Oregon. Although UC-Davis won the competition, the USD team received an at-large bid to compete at the international level in the Jessup Cup International Law Competition in Washington, D.C. in April. Keith Kubik, Karen Peckham, Vickie Pochelle, and Bryan Sampson make up the USD team.

Forty-two teams from around the world competed in the Washington competition. Teams came from as far away as Hungary, People's Republic of China, Hong Kong, Taiwan, Zambia, Malaysia, New Zealand, Bangladesh, Barbados, and from eight countries in Europe. Only eleven teams from the United States qualified to compete, including teams from Georgetown, Columbia, Fordham, Suffolk, University of Cincinnati, Georgia, Southern Illinois, Baylor, UC-Berkeley, UC-Davis, and USD.

The USD team was busy during their 9-day stay in Washington, meeting fellow competitors, arguing in several preliminary rounds and taking in a few of the sites in the capitol city. As of this writing, the results of the competitions are unknown. We are all proud of the hard-working regional team and congratulate them on an excellent showing thus far.

### CLASSIFIED ADS

Classified ad deadline for next issue May 1st. \$4 for 3 lines. Pick up forms in *Motions'* mailbox or office.

### HOUSING/ROOMMATE

ROOMMATE NEEDED for Crown Point Apt. Your own bedroom in a 3 bedroom/2 bath apartment. 1/2 block from bay. Share w/2 other female 2nd year law students. \$330 + utilities. Female non-smokers please call Elaine at 274-8957. Move-in May or June.

\* \* \*

This year's Appellate Moot Court Criminal Law Competition was held March 18, 21 and 22. Twenty-three students participated, with 10 students competing in the semi-final round. A distinguished panel of judges presided over the final rounds—Dean Sheldon Krantz, Judge Richard Huffman, and Community Defenders Director Alex Landon. The finalists were: Judith Crandall, first place; Laura Jackson, second place; Donna Lumia, third place, and Dan Hume, fourth place. Judith Crandall and Laura Jackson also earned best brief awards. Blaine Bowman won best oralist.

The Criminal Law Competition was this year's last Moot Court competition. The 1987-88 Appellate Moot Court Board wishes to thank all the students, faculty and staff who helped make the year a pleasure, as well as a success.

—Janet Mary Cross

## Logo contest results

The results of the Law School Logo Contest are in, and the winner is Gary Fielder. The tone of the entries was generally humorous. Fielder's prize-winner depicted a laid-back "Tommy More" contemplating the law while clutching a Corona beer. Fielder nabbed \$50 for his efforts. The other two entries were from students Ken Crowley and John Thaler.

The Contest was sponsored by *Motions* and SBA to generate a Law School logo, so that interesting T-shirts could be developed instead of the rather bland ones on sale at the bookstore. Unfortunately, there was not enough response to the Contest to allow for production of a new line of designer law-wear. However, *Motions* is attempting to convince the bookstore to offer something new and different in the way of attractive accoutrements bearing Law School insignia. We'll keep you posted.



The Technical Services staff includes, L-R: Laura Alhambra, Liz Carroll, Kathy Whistler, Georgia Briscoe, Lois Scheer, and Luda Berengolts.

## Backroom staff keeps library up-to-date

by Kathryn Whistler

Behind the scenes, the wheels of the law library are ever turning in the "backroom", more properly known as the Technical Services Department. Georgia Briscoe, head of Technical Services, directs a staff that implements every phase of acquisitions, cataloging, and processing all materials that come in (or leave) the library.

Of the thousands of items received each month each passes through the hands of Laura Alhambra, technical assistant; Luda Berengolts, cataloging assistant; Eileen Butter-Cox, serials assistant; Liz Carroll, cataloger; Lois Scher, acquisitions assistant; and Kathy Whistler, cataloger.

Books are only part of what is handled. A large proportion of incoming material consists of law journals, newspapers, pocket-parts, advance sheets, supplements, loose-leaf filings, microforms, and government documents.

Every title is ordered, received, searched, catalogued, classified, input on the library database, property stamped, security stripped, labeled, and shelved. Catalog cards are filed to complete the access circle. Detailed records are kept along the way.

This simple description belies the complexity which results from the large quantity and variety of material. In a month's time, Eileen checks in 300 periodicals and binds 75 titles; Laura receives 600 loose-leaf filings; Lois processes over 1,000 continuations; Luda inputs 250 cataloging records; Liz, Georgia, and Kathy catalog 250 titles; 20 inches (about 2,000) of catalog cards are filed into the public card catalog and 500 loose-leaf service updates are filed and 250 new books are shelved by the Technical Services Department. Add to this the processing of gift donations (about 35,000 in 1987!), withdrawals and cancellations; recycling (one ton of paper per month), planning for automation, major book shifting, and a new building.

The coordination necessary to keep up with the volume of materials demands a fine-tuned machine; Georgia sees to that while interfacing with the other departments in the library. She relies on a professional staff and the valuable support of the law student helpers to maintain the production necessary to provide the foundation of service to law students, faculty, and the public.

## WE COULD TELL YOU THAT LAW IN A FLASH IS THE BEST STUDY AID YOU CAN BUY.

"I discovered Law In A Flash while in my last year of law school. I needed a means of quickly reviewing Evidence, and I didn't relish going over a lengthy bar outline. The cards were fantastic! Later, I used all the Law In A Flash subjects to study for the MBE. I honestly don't think I could have passed the MBE without them."

Lolita K. Buckner-Innis,  
Admitted to the California Bar

"I used Law In A Flash for Evidence, and got an A+ on my exam, with the second highest grade in the class of 70 students. I can honestly say that Law In A Flash was instrumental in my success."

Maureen McCroskey,  
University of Dayton Law School

"Who said law school studying couldn't be fun? Studying with Law In A Flash almost makes me feel guilty. The definition and theory cards are good for understanding the basic law, but it's the hypotheticals that not only drive it home, but let me understand and apply it to exam questions. The best part about the flashcards is that they not only give you the application but the reasoning behind it. They don't make legal theories impossible to understand, and have made Property almost painless."

Regina E. Marquez,  
Hastings Law School

"After two years in law school, I've seen just about every study aid on the market. Most of these 'gouges' are factual but unmotivating. Law In A Flash, on the other hand, asks the questions needed to stimulate thinking. The cards duplicate the same pattern found on exams: problems designed to test application of law."

Paul Byers,  
University of Idaho Law School

"In one word, Law In A Flash is just plain excellent. It makes learning the law easier and more fun...You really can use Law In A Flash anywhere. I just put a few cards in my pocket and go to class. I use them in the classroom when I want to understand the point more clearly, and the professor just isn't reaching me that day. A few glances at the cards and I'm able to ask questions on point."

Keith A. Miller,  
Syracuse University College of Law

"I think your flash cards are great. I have enjoyed browsing through the series. It has reminded me all too vividly how much I have forgotten, and how desperately I would need, what you are doing should I ever venture to take a bar exam again (Heaven forbid!)"

Orville L. Freeman, Former Cabinet Member  
under Presidents Kennedy & Johnson; Partner,  
Popham, Haik, Schnobrich, Kaufman & Doty,  
Washington, D.C.

"Law In A Flash is the only study aid there is that keeps your mind engaged. Regular outlines give you black letter rules, and they're as dry as bones and dirt. I was a psychology major in college, and studied the classic techniques of learning, memory and reinforcement. Law In A Flash puts all these techniques to work. It's just great. I highly recommend it."

Ernest Smith,  
University of Maryland School of Law

"When I took Torts last semester, I went to every class, bought outlines and reviewed my notes. I thought I was ready for my exam. Then I picked up Law In A Flash. It made me realize how little I really understood. I used Law In A Flash and got the top score on my exam. I know Law In A Flash made the difference."

John Daniels,  
University of Bridgeport Law School

For a free brochure call: 1-800-23FLASH



## BUT WE DON'T HAVE TO.

AVAILABLE IN:

- Civil Procedure 1
- Criminal Law
- Property
- Civil Procedure 2
- Criminal Procedure
- Sales
- Constitutional Law
- Evidence
- Torts
- Contracts
- Future Interests
- Multistate Bar Review Set

HURRY WHILE SUPPLIES LAST  
THE UNIVERSITY  
OF SAN DIEGO BOOKSTORE





11801 West Olympic Boulevard, Suite 7, Los Angeles, California 90064  
213 • 477-2542

332 Golden Gate Avenue, San Francisco, California 94102  
415 • 441-5600

1407 First Avenue, San Diego, California 92101  
619 • 236-0623

**Brian J. Sacks, ESQ**  
Regional Director

Dear USD Law Student:

As the 1987-88 academic year draws to a close, BAR/BRI would like to wish all of you good luck on your upcoming final exams.

To the graduating Class of 1988, you have accomplished a major goal in your life and we at BAR/BRI appreciate the opportunity to help you over your last hurdle -- the California Bar Exam. In that regard, the summer course will be held on the USD campus both in the morning (8:30-12:00) and evening (6:00-9:30). For those students attending the evening lectures, you will have an opportunity to see the finest staff of professors teaching live. Students are always concerned with testing and we are pleased to offer the finest testing program including:

- A 4 day Performance Test Workshop
- A 4 day Multistate Method Workshop
- 20 hours of essay exam technique and testing including more than 200 past California Bar Exam essay questions. Students will turn in approximately 2 essay assignments per week for a grade and a complete written evaluation.

To continuing students, BAR/BRI will be as active next year at USD by offering enrollees recently updated outlines, early bird lectures, and a local full-time attorney staffed office.

If we can be of any assistance, please do not hesitate to call (619) 236-0623.

Sincerely,

  
Brian J. Sacks, Esq.  
Regional Director