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The Third Man: 'Win with Wallner' Campaign Takes Off in Race for 49th District

By Stacie L. Brandt

The campaign for the 49th District features a Libertarian candidate, John Wallner, who is taking this campaign serious. He has been working hard for his campaign, even holding a campaign kickoff breakfast to discuss the issues.

Mr. Wallner is opposed by Democrat Lynn Schenk and Republican Judy Jarvis. Mr. Jarvis, a nurse, won the GOP primary as the sole female candidate among a field of ten in this political "Year of the Woman." Ms. Schenk is an attorney and wife of USD Law Professor Hugh Friedman. None of the candidates has previously held political office, although Ms. Schenk served as California Secretary of Business, Transportation, and Housing. The San Diego Union-Tribune, which has consistently ignored Mr. Wallner's candidacy, proclaimed a certainty that San Diego will have a female member in the House next term.

Mr. Wallner also ran in the former 44th District in 1990. While working and attending law school, he spent $5,000 and garnered 5.5% of the vote. This year he plans to spend $15,000, some of which will be used to purchase radio and television ads, a Libertarian first in the past twenty years.

Back at breakfast, our eggs were cooking. His Men's Wearhouse suit jacket put aside, Mr. Wallner was leaning over the table and passionately describing a Libertarian: "Two people walk into a room. One says he's for free speech and civil liberties. The other claims she's for low taxes and a free market. The Libertarian's the one who walks in and agrees with both of them." Mr. Wallner contends that because Liberals share mutual ground with both Democrats and Republicans, he can work with both well. That was his response when asked if he would work together with the California delegation in Washington, posed at the Sept. 23 televised debate sponsored by the League of Women Voters with Children's Hospital and Health Center.

At breakfast we reviewed the issues. On abortion, he's "against a government powerful enough to ban it." However, he is opposed to any federal government funding of clinics, preferring private or local support. In fact, Mr. Wallner is opposed to federal government spending except in three areas: national defense, national police such as the FBI and CIA (with both he expressed dissatisfaction), and federal court systems. He finds the current Republican intolerance on social issues and its family values campaign "shocking." As for the war on crime, Mr. Wallner said, "Turns out we can't solve a problem in this country without having a war on it." On taxes, traditionally on the Libertarian hate list, Mr. Wallner said, "The paperwork bends the Bill of Rights. This onerous, invasive tax on production forces us to make economic decisions based on the tax code, rather than on the economy; it makes us less efficient." Only one third of federal revenues comes from the personal income tax.

To balance the federal deficit, Mr. Wallner proposes that we stop borrowing immediately, then cut spending by 4% a year.

See Wallner page 4

Fellmeth Accepts Law School's First Endowed Faculty Chair

By CPLP Staff

On June 29, Professor Robert C. Fellmeth was officially installed as the first holder of the Price Chair in Public Interest Law. The School of Law's first endowed faculty chair.

Funding for the Chair was provided through a generous donation of $1.8 million from Sol and Helen Price. The holder of the endowed faculty chair is to teach public interest law and direct USD's Center for Public Interest Law (CPLP). Professor Fellmeth founded CPLP in 1980 and has served as its first and only director ever since. Fellmeth and the Prices were honored at a private dinner on June 29 hosted by USD President Author Hughes and attended by President Strachan.

Sol Price, attorney and founder of the San Diego-based Price Club wholesale warehouse chain, is a longtime supporter of CPLP. The goals of CPLP are to open to the public regulatory process to public scrutiny and to train students to advocate the interests of the under-represented in the courts, legislature, and administrative agencies. The Prices' commitment to CPLP reflects their long held interest in challenging government to serve the needs of the public, rather than the desires of monied special interests.

"The generous Price endowment means that the Center for Public Interest Law has become a permanent part of USD Law School," said Professor Fellmeth.

Created in 1980, CPLP is a unique clinical program which serves as a watchdog of 60 state agencies regulating businesses, professions, trades, and the environment. Many of CPLP's 500 graduates have gone on to successful careers in public or private interest law. Some of CPLP's graduates include the current executive director of the Utility Con
The Party Is Over
USD Student Witnesses the Fall

By Christie Graves

It is an understatement that the events that have taken place in Russia over the past year and a half are remarkable. Opinions differ whether the former Soviets are better off now than before the collapse of communism. However, there is little argument that the situation in Russia and the former Soviet Republics has changed radically, and for better or worse, the people must now contend with the mind-boggling task of rebuilding their lives and their countries.

This past summer I traveled to Russia with three students from USD and twelve other students and two professors from around the world. Our experience differed from the other study abroad programs because we traveled with our professors constantly. We were lodged together in the same hotel in each city, and when we were brave enough to eat the hotel food, we ate together too. Like it or not, we were constantly close.

I traveled to the Soviet Union in 1986 with a group of high school students. I also spent four years in college studying the Soviet Union, Russian art and history, and post World War II Eastern Europe. However, all the classroom study in the world could not have prepared me for the shock and amazement I considered morally corrupt by the same government. I vividly remember the road from the airport to Moscow. "Moscow," it is an understatement that the Russia-Poland program was well run and worth the expense. I highly recommend traveling to Russia to anyone who has an appetite for the unpredictable. Moscow is unlike anywhere in Europe. The city has a wealth of natural resources, art, and culture to offer those with a mind open to adventure.

The streets are now crowded with people all day long. Masses of people form flea markets all over the city where people sell whatever they have: pots and pans, books, tennis shoes, food. The city has taken on a bustling, chaotic quality, much different from the somber mood of 1986. Then it was dangerous for a Muscovite to speak to an American on the street, and selling goods or services for a profit was considered morally corrupt by the state. Today, communicating with foreigners and entrepreneurial activity is a means of survival.

Our classes in Moscow, St. Petersburg, and Warsaw discussed the endless problems facing Russia and Poland's transformation to a market economy. We also discussed with attorneys in both countries the difficult task of rewriting their respective constitutions, revising the laws to fit the economic and social changes, and dealing with the widespread frustration in society due to the painfully slow pace of positive change.

Our trip had lighter times as well. Having no low in Mos- cow lost its humor by the eighth day. The identifiability in Russia was always good for a laugh, especially since we were given enough to bring American snacks, but foolish enough to eat them on the plane ride over.

Riding the spotless marble subway in Moscow is a great way to mingle amongst "Average Russians," and a good way to get lost. The subway is probably the best bargain in Europe, one half a U.S. penny for a one way ticket anywhere in the city. For about three U.S. dollars you can also catch a ride in a private car by standing on the curb with your arm outstretched. (Translation: Hitchhiking.) It was safe and cheap, and another great way to meet people.

In my opinion, the Russia-Poland program was well run and worth the expense. I highly recommend traveling to Russia to anyone who has an appetite for the unpredictable. Moscow is unlike anywhere in Europe. The city has a wealth of natural resources, art, and culture to offer those with a mind open to adventure.

San Diego Law Review Announces New Members

By Tom O'Brien

The San Diego Law Review recently announced the results of its annual write-on competition at a picnic at Crown Point on September 12. Seven new provisional Law Review members—Marc Carpenter, David Johnson, Kevin Kemper, Ben Nutley, Edward Pernal, Tim Tao, and Matt Wakefield—were chosen from a field of 46 writers. Over 70 students picked up the writing assignment, which involved tort liability issues.

All student members of the Law Review maintain a "provisional" status until they have completed a Comment, a Casenote, and a large number of grueling cite checking assignments. A Comment is a student piece which focuses in depth on a current legal "hot topic." A Casenote reviews a recent court decision and analyzes how that decision may affect the current legal system. San Diego Law Review student Comments and Casenotes have been cited by trial and appellate courts in their published decisions.

The San Diego Law Review has also announced that Comments written by law students Christopher Humphreys and Kim Boyer have been selected for publication in the Law Review's Volume 30. The following students have fulfilled their Comment requirement: Suzanne Evans, Brenda Griffin, Scott Oliver, Scott Patterson, Gigi Scatena, Marjeta Six, Sharon Spivak, and Julie Vogelzang. Also, Tim Hart, Bonnie Kane, Laura Larcari, and Luke Ryan have completed their Casenote requirement for the Law Review.

The latest issue of the San Diego Law Review, Volume 28, No. 3, will be available soon in the floor of Warren Hall. This special immigration issue contains articles on the fourth amendment and the INS; spouse-based immigration laws; the involuntary repatriation of Black Hebrews; and foreign investment and the Immigration Act of 1990. The issue also contains two student Comments and two student Casenotes.

The next issue of the Review will be published later this semester. A special Pacific Rim edition, it will include articles on environmental law in Hong Kong, Singapore, Canada, Mexico, and the United States. This issue will also contain student pieces written by Jeff Guise, John Rigne, and Michael Blazina.

Did You Know?
Vice President Gives USD Commencement Address

By Sylvia Polonsky

First in a continuing series of articles about the history of USD.

Throughout the semester Motions will focus on how USD has evolved into the institution we know today. Although USD has changed a lot over its 43 year history, its roots are quite interesting. Did you know...

USD was chartered in 1949 as two corporations: the College for Women founded by the Society of the Sacred Heart and the College for Men/School of Law founded by the diocese of San Diego.

The name of the campus, Alcala Park, reflects dedication to California's Spanish heritage and honors Diego de Alcala.

Enrollment of the College of Women began with 33 students. The College of Men began with 39 undergraduate and 55 law students. Today USD's total enrollment is 6083.

The College of Men and School of Law were originally housed at University High School. The School of Law began as an evening program because it shared a building with the College of Men, which occupied the building during the day.

Vice President Richard M. Nixon gave the first commencement address at the College for Men in 1959. On the same day, he dedicated the new arts and science building (Serra Hall) and received the school's first honorary doctorate of law.

The College of Women had a formal protocol during the 1950s and 1960s which required women to be suitably attired for dinner in a dress, nylons, and heels. They were also required to obtain permission from the college president to leave the campus for the evening.

Encouraged by Vatican II, the colleges merged in 1972 into a single USD.

The next article in this series will focus on some of the more humorous events that have occurred on the USD campus.

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Career Center Should Be First Step for Job Planning

By Elizabeth Genel
Mayo Law Editor

First in a continuing series

I was wondering what everyone was doing milling about on the bulletin board across from the Wills. Is there a drawing for a Miata? Is a thumbnail sketch. Don't think so, but I'll check what's available. It's hanging on one wall. No, I discovered, it is hunting season. The fall job/interview hunting season. A sport where everyone can win if they think smart, persevere, and use the Career Center.

Since I didn't notice my name up on that bulletin board, I thought I'd make an appointment to talk to Susan Benson, the Director of Career Services, to see what's what, and to make sure she knew how to spell my name should the need arise.

For first-year students who have no idea what I'm talking about. I'll give you a brief, thumbnailed sketch. Don't worry about it until first semester, second year. Study hard this year, get good grades because boy do they mean what they say. For first-year students who are thinking about what classes you've taking, and you think it might be a good idea to start looking for a job. Let's assume you are a student who is prepping for the bar exam, but you are thinking about what you want to do. The office is open M T W F 8:30-5:00, Th F 8:30-5:00 while classes are in session.

Tell your hairdresser. (I'm serious.) Tell the man sitting next to you that you are all this office that he has to meet them half-way.

They've taken the time to create a fabulous timetable of deadlines for different legal areas. For example when you are in an information session on judicial clerkships WEDNESDAY, OCTOBER 14. Second years, that means you especially, because you have to apply now for after graduation. Get it? You have to read the fine print carefully when thinking about jobs because if a deadline passes you by, that's one less opportunity for you. Don't neglect your academics while looking for the perfect job. But always keep your feelers out. Don't be afraid to tell everyone you know that you are a brilliant law student looking to share your talent with some lucky employer.

Perhaps a non-traditional job where you can use your fancy J.D.? Explore your different options by taking a look at what classes you're enjoying. Your goals may shift after taking some classes or clerking, but don't worry because the Career Center has all kinds of guides and directories to help you.

The staff is high energy and committed to helping students, but you have to meet them half-way. You have to connect by going in and checking out the services. Thumb through some of the different directories. There are job books available with current listings of employers who actually have hiring needs. If you are having a hard time, make an appointment with Susan, Kate, or Cindy.

Tell your hairdresser. (I'm serious.) Tell the man sitting next to you that you are planning to go to flight school in Florida. (Dead serious on that one. My friend got a fabulous job, complete with company car and phone.) And perhaps most importantly, keep your spirits up. If you don't get a paying job this summer, volunteer, or do something you are passionate about. Take the opportunity to do something within the legal field that you may not have the chance to do when you graduate. Legal aid, helping the homeless, that kind of thing. But do something law-related even if it means selling lipstick at Nordstrom to pay the summer bills. Did I list last summer. It's very exhausting, but just get a mini-massager from Brookstone: massage your feet behind the counter, and ignore the little whirring noise.

If you need help with your resume, the Career Center has a computer with a laser printer to help you out. They have Lexis and Westlaw to do job searches, as well as newsletter, job search tips, employment and salary information. So please, keep your eyes open, and take a few minutes to check out the Career Center. Remember, finding a job is a full time job in itself, and the Career Center can help! Motions will be featuring articles on the Career Center with every issue, and Susan Benson will be publishing her own newsletter.

All you have going for you, plus all this available money at your fingertips, don't you feel better about getting a job? I know I do.

Ms. Genel is a second year student desperately seeking a job: "Any job. At this point I'm not terribly particular. I don't need a corner office or a company car."

Noted Natural Law Theorist Speaks at USD: Professor Charles Rice

By L. Lucarelli
Mayo Staff writer

Professor Charles Rice, co-editor of the American Journal of Jurisprudence and Professor of Jurisprudence and Constitutional Law at Notre Dame Law School, addressed a crowd of roughly 90 people last Thursday on the subject of natural law theory. Echoing a law review article he published in Wake Forest Law Review, Rice explained that natural law theory is the story of how things work.

Professor Rice noted that there are competing theories of jurisprudence, natural law theory and legal positivism. Quoting noted positivist Hans Kelsen, Rice explained the difference between natural law theory and positivism as one of whether there is some "higher law" to which positive (man-made) law must conform. Positivism, he explained, believes that any law is valid if it is duly enacted by the legislators of a community. The alternative view, represented by natural law theory, is that positive law is only valid if it conforms to the principles of natural law, which principles are derived from the nature of the thing governed, i.e., human nature.

Professor Rice illustrated the need for natural law theory as an antidote for unjust positive laws by referring to the case of Nancy Cruzan and other euthanasia cases. He noted that Nancy Cruzan, whom Justice Stevens questioned as being not "human," was capable of crying when visitors left and eating a break-fast of eggs, bananas, and other "normal" food. Professor Rice suggested that laws sanction the termination of lives, not for the benefit of the lives terminated, but for the benefit of society. Noting an increasingly aging population, he predicted that the nonconsensual killing of the aged would become more common as society found its ability to care for them increasingly limited.

While Professor Rice noted that natural law theory had its roots in philosophers such as Aristotle and Cicero, he made frequent references to St. Thomas Aquinas. Although the speech often exhibited religious overtones, Professor Rice gave little attention to volatile social issues other than euthanasia.

Professor Rice noted that the Constitution is a noble document and that natural law theory should be used to interpret the Constitution, not contravene it. He suggested that natural law theory should not be used as an esoteric method for judges to insert their own views in the document if those views were incompatible with it.

After fielding several questions of a more or less religious bent, Professor Rice suggested that those in attendance should pray that Notre Dame be beatified (St. Thomas Aquinas. Although the speech often exhibited religious

LRAP Study Underway

By Christopher Harris
Mayo Staff writer

"Nothing is more dishearten-ing than... to see a career in public interest law become unacceptable because of the financial impossibility... Thus, a pro-gram of loan assistance is essen-tial to maintain both the flow of our graduates into public interest law, and the credibility of our future efforts to recruit students with pub-lic interest ambitions."

Dean Gerald F. Uelmen, Santa Clara Uni-versity School.

A Loan Repayment Assistance Program (LRAP) allows law-school graduates to work in public interest law and meet the legal needs of society's unfortu-nate. An LRAP offers post-gradu-ate financial aid to those employed in the field of public interest law. Administered by the Office of Financial Aid, it would encourage students to consider public interest positions by lowering their monthly loan payments.

At USD, the need for an LRAP program is particularly dire because 34% of USD's students/graduates nationwide who accepted public interest jobs decreased by 50%. USD is particularly well suited to encourage graduates to work in this legal field because of USD's Center for Public Interest Law. CPL in-structs students in the mysteries of the regular legal system and advises them to advocate consumer con-cerns in the state regulatory process. Recently, CPL has been in-strumental in the restructuring of the disciplinary procedures in both the State Bar and the Medical Board, two of California's largest profes-sional licensing organizations.

To address this wide disparity in salary and loan debt, Harvard Law School created the nation's first LRAP in 1974. Since then, LRAPs have swept the nation. In California, Boalt Hall, Loyola, UCLA, UCSF and USF all have LRAP programs. At USD, Christi-nie Harbs is working to finish a proposal for LRAP. She is in the mak-ing and is planning to introduce it to the school administration. Students would greatly assist this organization by taking a few more hours to do the paperwork and return the red forms which have recently appeared in student mail-boxes. With students' help, USD will develop the LRAP. Once developed, USD graduates will have an opportunity to enter into a fulfilling career in the area of public interest law.
Journal from page 1

laid out a number of conditions for the continued operation of the Journal. The stipends included a student based solution to the financial quandary and that the Journal catch up in its publishing schedule.

Last year’s Board then rolled up its sleeves and went to work, spending countless hours to clean up the inherited mess. They renegotiated past due accounts, developed new invoicing procedures, held an auction, and received a capital grant from SBA to put the Journal back in the black. Two double volume issues numbers 3 and 4, were published last year to re-establish publishing integrity. As a result, every condition originally imposed at the beginning of last school year upon the Journal for continued operation was satisfied by September, 1992.

Unfortunately, the ongoing financial and legal turmoil resulted in fallouts between past boards and the original faculty advisors. Eventually both Professors Dallas and Wohlthum resigned. Professor Wohlthum in the September 22 meeting referred to these past problems, maintaining that despite the progress made, the future of the Journal is untenable under students alone.

Focus on work quality
Both Professors Wohlthum and Alexander’s main focus in the meeting was on the quality of the work submitted to the Journal. They believe that a faculty run Journal using the symposium format would be superior to the present Journal because student run journals, including the San Diego Law Review, must compete for a limited number of quality articles. It was their position that only a faculty run format has the potential to raise the quality of Journal submissions to the top echelon of scholarship in the legal community. It should be noted that a faculty run publication at the USD School of Law would be among the first in the nation.

Dean Strachan then raised the issue of finances. While praising the present Journal, the Board for its “Heraclean effort” in cleaning up the situation last year, the Dean emphasized that the new format would require financing above and beyond the resources of the present Journal. Were the faculty to gain control, they would receive greater financial support from the law school, including additional stipends, secretarial support, and possibly academic credit.

Then, the new faculty run Journal would significantly differ from the existing Journal. Although the new Journal would have increased financial resources, students would have no control of topic and article selection.

In short, the Journal will cease as a student run organization. On the positive side, the new format increases financial resources available to the Journal making new opportunities available to students.

Most of the concerns voiced by the present Journal Board addressed the role of students in the proposed new format. One question centered on whether the new Journal would be superior to the present Editorial Board of the Journal. This question elicited a tentative yes, provided that the articles were on the symposium topic and deemed to be quality. Another question expressed the concern that student editors would become mere “captive rats” under the new proposal. Professors Wohlthum and Alexander expressed their concern that there were not adverse to active student involvement, although it was unclear how this work would in practice. Related concerns included how future student editors would be chosen and admission criteria for student involvement.

Journal now on hold
The meeting adjourned on the note that the future of the Journal was to be decided in a faculty meeting on October 30. Until that meeting, the Dean has placed a hold on all Journal activities, including receiving new student members. It was indicated that unless significant reforms, including the increased faculty control were made, the faculty at the October 30 meeting would likely withdraw its support, including the School of Law name, from the Journal. The Journal Editorial Board was encouraged to develop any counter proposals as it saw fit for presentation to the faculty at the October 30 meeting.

Due to the sweeping nature of the faculty proposal, the present Editorial Board of the Journal feels a duty to inform the faculty at large and fellow law students of the impending changes. The present Board is committed to improving the quality of the Journal and welcomes increased support from the faculty and University. Last year’s achievements indicate that students are capable of significant improvement when properly motivated.

The Board believes that a more equitable position can be afforded without total divestiture of student control.

The Board welcomes faculty and student suggestions for the future of The Journal of Contemporary Legal Issues, especially in regards to support, attendances for student editors, and possibly academic credit.

Journal now on hold

USD Students Honored by ABA

By Cheryl Forbes

The American Bar Association (ABA) is the nation’s largest and most prestigious organization within the legal profession. It has three main divisions: Senior Division, Young Lawyers Division and Law Student Division. Sections encompass many specialties.

I became the ABA representative for USD my first year in law school shortly after I attended a circuit meeting and joined the Law Student division. ALSA presidents and ABA representatives from ABA-accredited law schools attend three circuit meetings and one national meeting throughout the year.

As ABA Representative I attended my first annual meeting in 1990 in Chicago. I authored and presented on the assembly floor a resolution to reduce legal fees by encouraging attorneys to make court appearances by telephone, which passed. The idea had been sparked by USD Professor Simmons. I also authored two resolutions which became reality for many of us. The first resolution was to increase the Stafford Loan amount, and the second was to allow tax deductions for graduate student loans.

Randolph (JD 1992) was honored as being the best SBA president in the country, as well as in her region. Patty O’Connor (JD 1992) presents as a past Ninth Circuit Governor and National Chair for Public Interest, was awarded a Silver Key for her dedication and commitment to the ABA. I was awarded a Gold Key, the highest honor bestowed by the ABA for service, dedication and leadership. It was quite an honor, but the best reward was seeing the results of USD’s extraordinary national participation.

Also present from San Francisco were current Ninth Circuit Governor David Gurley, SBA President Robert Cheung, and ABA Representative Danny Rodriguez.

As resolutions are debated, it is interesting to hear the differing views from across the country. This past August a progressive assembly met at the annual convention in San Francisco. Some of the resolutions had similar themes to those discussed in prior years by more conservative assemblies. For example, this year the Division resolved to oppose state or Federal legislation which restricts the right of a woman to choose to terminate a pregnancy, while last year’s assembly chose to take a neutral stand on abortion.

This year’s assembly also resolved that the Division express its opposition to the arbitrary exclusion of homosexuals from the armed services of the United States. It will urge the ABA to encourage Congress to pass H.R. 5258, or similar legislation. The armed forces discriminate against its employees on the basis of sexual orientation. Last year’s assembly unconsensually attempted to eliminate JAG as advertisers in the Student Lawyer because of its discriminatory policies.

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Wallner from page 1

year for 5 years. After 30 years the budget will be balanced. Mr. Wallner opposes such wasteful federal expenditures as refinancing President McGinley’s mother-in-law’s house. He added, “I do not deliver pork to my district.” Rather, he supports programs that will benefit the country as a whole: for example, inner city economic enterprise zones. He supports investment as well as disinvestment, which he believes should have been the government response to Chrysler. Humor is an important ingredient of the Mr. Wallner’s appeal to his audience, “Politicians are like diapers: they should be changed often and for the same reason.” On the issue of SBA, he noted that Rogers once said “Thank God you don’t get all the government you pay for.”

If Mr. Wallner is elected on November 3, he will be the first Libertarian member of the House of Representatives. He plans to sail the boat he currently lives aboard through the channel of San Diego Bay to Annapolis, where he has arranged to stay in the inexpensive restaurants. Mr. Wallner has pledged to take voluntary 10% pay reduction in the $120,000 salary. He expects to draw his pay from the San Diego office of the Congressional Services, which in turn would receive the pay cut.

Felmeth from page 1

sioners’ Action Network (UCAN), the staff counsel to the Senate Judiciary Committee, the staff counsel to the Assembly Judiciary Committee, a senior attorney in the Department of Insurance, numerous city and district attorneys specializing in consumer fraud, and the current Supervising Attorney at the Center for Public Interest Law.

Students have been involved in many of the Center’s successes over the past 12 years, including the creation of UCAN (which now has 60,000 members and is the third-largest ratepayer advocacy organization in the United States), the abolition of unnecessary state agencies, its nationally known efforts to improve and enhance the state’s attorney and physician discipline systems for the protection of clients and patients, and its recent attack on California Lottery advertising. CPIL interns are given the opportunity to work on draft legislation and agency rules, participate in high impact public interest litigation, and work under the supervision of experienced public interest attorneys and lobbyists.

Professor Felmeth added, “It is a great honor to be associated with women like Helen Price. Their dedication to public justice gives this chair special luster.”

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Rice from page 14

non-person and calling his eighty year old grandmother a non-person. We are, in fact, moving toward legalizing lethal injections for competent people who ask for it, incompetent people who would ask for it, and incompetent people who should ask for it.

Disappointingly, Professor Rice relies heavily on a slippery slope argument that killing a human body which cannot experience any of the higher brain functions which separate human beings from say, iguanas, will lead to mass murder of the elderly. He concludes that for this reason such people should not be killed. Such an argument could be made for eliminating a minimum voting age. If we can set the age at eighteen, what is stopping the legislature from increasing it to twenty or forty?

Rice assumes without justification that things with no more human consciousness than gravel are persons. He thus begs the major question of the discussion, which is: "are embryos and the brain-dead persons?" If so, a natural law analysis might tell us whether we can morally kill them or not. But Rice has begged this question too: he argues from the authority of Saint Thomas that we must not kill the innocent. A natural law argument against all euthanasia can be made. Like having an abortion, but stopping the legislature from increasing it to twenty? or forty? Such preaching to the converted obstructs the debate take the step of justifying their conclusions, they will convince no one. Rather than furthering the dialogue, it merely adopted the proscription of law which could convince those who do not share his assumptions. Rice merely adopted the proscription of Saint Thomas without analysis, begged the major question of personhood, and predictably concluded that Catholic dogma is in fact correct on the issue of euthanasia.

This preaching to the converted obstructs serious dialogue on the thorny issues of the day. Rather than furthering the dialogue, it merely entrenches supporters. Until participants in the debate take the step of justifying their conclusions, they will convince no one but their own.

Labor from page 14

and not the Department of Fair Employment and Housing (DFEH), the administrative agency which has historically handled these types of cases and has the most experience in handling them. Wilson stated that the use of the Labor Commission would expedite investigations and would result in lower costs for the Board. In this instance the Moot Court Board noticed the mistake, or excluding participants to make their job a little easier?

Overall, the law is a great idea whose time is long overdue. The policy, however, is lacking. If we are going to say that California will no longer tolerate bigotry, then let's implement it and put the law in its right place.

Plea from page 14
discussions with Board members. The Excluded Participants were denied a chance to meet with the Board as a whole. The Moot Court Board met in private and voted to continue denying participation.

The purpose of the Moot Court competitions is to prepare students to be successful oral advocates. The Moot Court Board decided that it is more important to teach their fellow students that when practicing law, success may be more dependent on caprice than competence. Capriciousness was evident because any impartial judge would ask:

(1) Isn't it likely that because the dates were mistaken in the rules that the rule was drafted carelessly?
(2) If the second signup at the door was so important, why wasn't it mentioned in the same announcement that the Moot Court Board made in the weekly Sideline on September 8 concerning the competition?
(3) If getting the problem was not an official "signup," why require the students to leave their phone numbers? Was anyone called as a result of this signup after the Board noticed the mistaken date in their instructions?
(4) Because this is such a harsh position for the Board to take, what are its motivations? Choose your poison: covering their mistakes, or excluding participants to make their job a little easier?

If this is to be a law school where students have high morale combined with a strong desire to learn, these questions must be answered in favor of having allowed the Excluded Participants to participate. This is the only equitable result. Consider that the students spent between thirty and fifty hours preparing to compete, and the problem could have been avoided by spending ten more minutes drafting the rules, or a few more hours finding judges.

This was not the chosen route. As both statute drafter and judge, the Board grew increasingly testy with the hot potato whiners who questioned their omnipotence. Oral arguments were held on Wednesday, September 16, with fifteen percent fewer participants than turned in briefs.

Those who spent many wasted hours on the brief have the right to more honest and straightforward treatment by the Moot Court Board. Indeed, all students have the right to expect more of the Board. In this instance the Board rose to levels of incompetence and insensitivity not seen since -- well -- since last year, when they scheduled the same competition on Yom Kippur, totally unaware that it would provoke the participation of a sizable minority of students.
Greetings from S.B.A. This is the first of my reports to keep you informed of the happenings of your Student Bar Association. S.B.A. has had a very busy first month, and I'd like to recapture some of the events of the first forty-something days.

ORIENTATION: This year we tried to improve upon an already successful First-Year Orientation, and from the response it was well received. 285 First-Year students attended and received their first dose of law school academia. We tried to keep the information flowing and the day as informal as possible. Special thanks to all those who helped.

FALL PICNIC: The fall picnic quickly followed Orientation and the first day of classes. This year's picnic was at the West Field, on the opposite end of campus. There were food, music, volleyball, beer, and game booths to liven up the day. The event was so well attended that we ran out of beer before the day was over.

MENTOR PROGRAM: This is the third year for the Mentor Program, a program which was created by Anne Dierickx and is carried on by Shivan Serman. Shivan did tremendous work this year in coordinating First Year with Upper Class students. The work of meeting mentors and mentees culminated with the Mentor's Reception, which provided an informal opportunity for mentors and mentees to begin to build a working relationship. If you signed up for the Mentor Program and are unable to reach either your Mentor or Mentee, keep trying to reach them by phone or through their mailboxes. A second event is being planned.

S.B.A. RETREAT: On October 12, S.B.A. met with all the elected officers and representatives of organizations to discuss the upcoming year. We set goals and tried to predict some of the problems to be expected. We also discussed new activities to undertake.

Following the Retreat, new committees were formed to evaluate expanded, new, and existing groups.

COMMUNITY OUTREACH: S.P.A. is dedicated to providing services to the San Diego community. This year we will have Canned Immunity before Thanksgiving. As last year, students who bring cans to class will be immune from Socratic questioning in that class, with professors' cooperation. Immunity is a nice incentive for students to participate in a food drive.

VOLUNTEER INCOME TAX ASSISTANCE PROGRAM: Several schools throughout the nation have programs in which students help members of the community fill SIMPLE income tax returns. The program is a self-help program in which students provide answers and guidance. If you've prepared 1040, 1040 A, or 1040EZ, then you can probably answer SIMPLE tax questions.

RACE JUDICATA: Race Judicata is a fun run, we'd like to put together to raise some money in the spirit. It will be a strictly non-competitive, and we encourage professors and alums to participate.

SPOSO: Back by popular demand. SPOSO is Spouses and Significant Others. SPOSO is designed to keep our neglected loved ones in the loop. Often we are so busy, we forget how difficult law school is for our spouses and other significant others. SPOSO is planning a social event and periodic meetings.

If you have an interest in participating in these or any other S.B.A. committees, come by the office in the Writs and sign up.

Lastly, a reminder of upcoming events.

HALLOWEEN PARTY: This was the rage of last year. Halloween, costumes, no more needs to be said (except October 30th is the tentative date).

S.B.A. GENERAL MEETINGS: We meet every Wednesday at 4:30 p.m., in Room 22a; all are welcome to attend.

S.B.A. President's Report

By Robert Chang

Student Organization Roundup

By Justin L. Miller

The Law School has many student organizations all designed to serve the needs of the student body. Each semester all students pay an S.B.A. fee from which comes most of the money for these organizations. Other funding sources include member dues and fund raising activities.

Student Bar Assn (S.B.A.): All students are automatically members of S.B.A. by virtue of the student activity fees billed with tuition at the beginning of each semester. The Student Bar is the student governing body, and the S.B.A. Council represents the student body in all decisions regarding student organization budgets, faculty input, and other operations of the school.

Voting members of the Council include representatives from each of the student organizations, class-year representatives, and elected at-large President and vice presidents. The S.B.A. office is located in the student services suite.

Appellate Moot Court Board: The Board is in charge of organizing the Moot Court competitions for USD law students and an intercollegiate invitational competition. The Board is selected every year from applicants, with highest priority given to those who have done well in the competitions.

Asian Pacific American Law Students (APALS): A support and social group for Asian and Islander students, APALS is a new group this year.

Black American Law Student Assn (BALS): BALS, one of the oldest organizations on campus, is a support and social group for African American law students in the transition to law school. It has taken over much of the work begun at Thomas More Hall, a formal dance for law students.

Black American Law Student Assn (La Raza): La Raza is the Latino law students' social support group. Its speakers and forums emphasize the impact of Latinos on the development of American jurisprudence.

Loan Repayment Assistance Program (LRAP): LRAP is a task force created this year to continue work begun at USD Law School about four years ago. The goal is to create a program to take over loan payments for those students who choose to go into public interest law after graduation. USD is one of only three California law schools without an active LRAP program.

More Hall Public Interest Law Foundation (PILF): More Hall PILF raises money to support law students who volunteer their summers to public interest law groups. Money raised goes directly to students. Much of the funding comes from an annual law school fund raising series in the spring.

Alpha Delta Phi Law Fraternity (PAD): PAD is an international law fraternity. The San Diego chapter publishes a phoono di-rectory for the law school and conducts the "Day with a Judge" pro-gram. PAD co-sponsors with the S.B.A. the annual Halloween party.

Phi Delta Phi (PDP): PDP is another law fraternity at USD. It sponsors the annual spring Barristers Ball, a formal dance for law students.

Spouses and Significant Others (SPOSO): SPOSO is a support group for those closest to our law students and helps law students and their spouses and significant others share in the law school experience.

Women's Law Caucus: The Women's Law Caucus is on the cutting edge of new developments concerning women in the law. It was created to address the special needs and interests of women in law, ranging from affirmative action to law career enhancement. It aims to promote professionalism and provide opportunities to network and socialize. They have sponsored speakers such as judges, and nationally known personalities.

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SBA Budget Fall Semester 1992

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GRAND TOTAL: 181920
By Shirvan Shenna

The Barristers Society is a newly formed group that promotes trial advocacy skills and techniques. The Society will host an intraschool mock trial competition October 21-23 in the classrooms downtown, with the final round taking place 6pm Friday night in Grace Courtroom. The top five finishers of this competition will be invited to be members of the 1992-93 National Mock Trial Team.

Rotaract: A Service Club for Students

By Sandra L. Johnson

Thousands of children have been immunized from polio, students are given full scholarships to ambassadors, and providing Easter baskets for hurricane victims in Florida and Louisiana are provided with thousands of pounds of dry ice. Who is behind these projects? Rotary International and its thousands of Clubs worldwide. In 1905 an attorney named Paul Harris felt the need for fellowship and a desire for community service in the quickly growing city of Chicago, Illinois. His need became reality in the first Rotary Club. Since then Rotary has grown to more than 1.1 million members with Clubs in 184 countries. Some years later rotary established a Rotary Club for young adults called ROTARACT. There are nearly 5,000 ROTARACT Clubs worldwide. ROTARACT has gathered regularly for fun, community service and professional development.

1992 Alumni Tort Competition Kicks Off Moot Court Calendar

By Moot Court Board

Forty-six second, third, and fourth year students participated in the 1992 Alumni Tort Competition on September 16, 17 and 18. It was the first Moot Competition of this school year.

Mock Trial Coordinator Bill O'Leary wrote the problem, which dealt with issues arising out of claim for negligent infliction of emotional distress. In an exciting fi nal round, David Bigelow won first place, followed by Virginia Henkels, Paul Junge, and Ed Pernal. Top honors also went to judges were: Professor Mike Kelly; Leslie Fleming of the Office of the Attorney General, Civil Division; and Sheryl King of Coughlan

By Robert Little

Perkins, speaking to a group of fifteen students, noted that while poverty statistics have recently increased, there is reason for skepticism of these numbers. Because poverty statistics coming from the Census Bureau count only income and do not account for government support or existing assets, forty percent of the poor own their own homes. He suggested a new system which would count for government support and assets more realistically.

Noting, however, that ten to fifteen percent of the Census Bureau's poor is indeed discouraged family cohesion, Perkins spoke of "poor people are trapped by a system which forces urban children to go to bad "baby-sitting school" schools. "For jobs, he heralded enterprise zones to reduce taxation and regulation of inner city areas to bring jobs back into cities. Recognizing that the causes of chronic poverty are at root economic, Perkins said that a strong growing economy was the most important solution to urban issues. Lower taxes and inflation in the 1980s resulted in 20 million new jobs, created without a significant increase in government assistance. These are the policies, Perkins related, which will bring jobs into urban America and end poverty.

JOSEPH PERKINS: Discussing poverty issues with Bob Little and Bonnie Kane.

By Sandra L. Johnson

Some thousands of children have been immunized from polio, students are given full scholarships to ambassadors, and thousands of pounds of dry ice. Who is behind these projects? Rotary International and its thousands of Clubs worldwide. In 1905 an attorney named Paul Harris felt the need for fellowship and a desire for community service in the quickly growing city of Chicago, Illinois. His need became reality in the first Rotary Club. Since then Rotary has grown to more than 1.1 million members with Clubs in 184 countries. Some years later rotary established a Rotary Club for young adults called ROTARACT. There are nearly 5,000 ROTARACT Clubs worldwide. ROTARACT has already fostered new friendships and set goals for upcoming projects. Some future projects include spending a day with a business person to further professional development, creating greater environmental awareness, and providing a Christmas gift drive for children in Tijuana.

ROTORACT hopes to reach out to the downtown homeless and a desire for community service. ROTARACT is a service club for students.

MOTIONS

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Nosler Private Property Be Taken for Public Use, without Just Compensation:

Legal Perspective: Lucas v South Carolina Coastal Council

By John H. Muan

A few months ago, the United States Supreme Court decided Lucas v. South Carolina Coastal Council, 112 S. Ct. 2892 (1992). The Court resolved two distinct questions:

1. Was South Carolina's Coastal Management Act constitutional?
2. If so, did the Act take Lucas's property without just compensation?

The Court held that the Act was constitutional, but that Lucas was entitled to just compensation. The decision has been widely hailed as a victory for property owners.

The Lucas decision was a landmark case in the field of takings law. It addressed the fundamental issue of whether government action can be considered a taking of private property, even if the property is not physically taken.

Comment on Lucas

By Bernard H. Siegan

Most constitutional disputes about land use regulations involve a determination as to when a regulation becomes a taking. The relevant issues in the fifth amendment's private property clause shall not be taken for public use, without just compensation. The takings clause is a matter of degree: a taking is affirmed when regulation becomes arbitrary or excessive. Lucas decision is that South Carolina's Coastal Management Act is constitutional, because it is a zoning ordinance, a legitimate exercise of police power, and is not an imminent regulatory scheme, such as a wetland law, that unduly delays the development of a property and is not appropriate to achieve the public interest.

The Lucas Court held that the Act was constitutional, but that Lucas was entitled to just compensation. The Lucas decision has been widely hailed as a victory for property owners. The Lucas decision was a landmark case in the field of takings law.

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whole. ... For aught that appears that the value of the coal kept in place by the restriction may be negligible as compared with the value of the land but even as compared with that part of it which is represented by the coal remaining in place and which may be extracted despite the statute." I'd. at 419. In short, the disagreement then, as it is today, was over whether takings law requires analyzing "what's lost" or "what's left."

Were Holmes alive today, he might ask as that requiring 90% of the land to be left in a natural state is a takings portion of that portion of the estate. From the Holmesian perspective, the focus would not be on the economic value of the remaining 10%, but on the loss that the owner suffers for the 90% property. This cannot be used by the owner. In contrast, Brandeis probably would view the situation from the perspective of economic value of the property that can be used. Government has to be able to regulate the use of land, without compensation, and it would be difficult to imagine that the existence of a particular use every time it affects the value of land.

At the risk of reading too much into the tea leaves that remain in the cup containing the Supreme Court decisions on takings law, the Holmesian view of the issue probably is not the way the Court would analyze a partial taking today. For example, in Lucas v. South Carolina Coastal Council, the Court would analyze a partial taking today. For example, in Lucas v. South Carolina Coastal Council, see Penn Central Trans. Co. v. New York City, where the state examined the diminution in the parcel's economic value, produced by a municipal ordinance in light of the total value of the taking claims other holdings in the vicinity (see Lucas, n. 7 above). This statement is helpful because it tells us how not to view the problem.

The second difficulty in applying the takings clause is more seriously multitudinous. For example, the property owner whose property is 90% burdened by the restriction might argue that the loss of the 10% was not taken. More significantly, the fact that the law prohibits the owner to maintain a billboard for a certain period of time, say five years, but thereafter requires the owner to remove it, might result in how the owner's economic loss is now determined. Thus, if Lucas strongly suggests a per se compensation, the existence of some common law nuisance to save the statute, the conclusion that a takings has occurred seems likely. We know following Lucas that the state, having directed the immediate removal of all economically beneficial or productive use would have been destroyed, for example, that the state's 90% compensation would have occurred. Alternatively, is the situation analyzed at the time the statute is adopted? Further, the perspective for the owner who does not sell. On the other hand, if the burdening regulation is adopted after the property was acquired, the owner might argue that he or she has already been forced to develop the property, at least to the extent that the law permitted at the time of acquisition. More significantly, the argument might be made that the owner should be able to determine the extent that the law permitted at the time of acquisition and are unable (or unwilling) to determine the extent that the law permitted at the time of acquisition. There, an unelected member of the judiciary (presumably aided by the Supreme Court Reporter and not the people) decides whether the Supreme Court would feel that the state's law unduly burdens "self definition." If so, the federal court applies exhaustion via the judge-made privacy view, see inappropria. A consideration of an owner's reasonable expectations is generally applicable to a per se test. See this "right line" test seems to be at odds with the view that there is a common law nuisance which might question its propriety. It involves an ad hoc factual inquiry.

Lucas from page 9

fourteenth amendment insures that the property interest in the particular coal deposits that were required by law to be left in place. This Supreme Court case, as well as others, suggests that while the principle of the definition of property that is not burdened by the partial concluded is to determine whether the owners of some 10% of the property that is not burdened by the partial nor her own harm. Therefore, the Court might deny the takings claim on this basis. The same reasoning and perspective of the owner who does not sell. On the other hand, if the burdening regulation is adopted after the property was acquired, the owner might argue that he or she has already been forced to develop the property, at least to the extent that the law permitted at the time of acquisition. More significantly, the argument might be made that the owner should be able to determine the extent that the law permitted at the time of acquisition and are unable (or unwilling) to determine the extent that the law permitted at the time of acquisition. There, an unelected member of the judiciary (presumably aided by the Supreme Court Reporter and not the people) decides whether the Supreme Court would feel that the state's law unduly burdens "self definition." If so, the federal court applies exhaustion via the judge-made privacy view, see inappropria. A consideration of an owner's reasonable expectations is generally applicable to a per se test. See this "right line" test seems to be at odds with the view that there is a common law nuisance which might question its propriety. It involves an ad hoc factual inquiry.

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FLEMING'S FUNDAMENTALS OF LAW

EXAMINATION WRITING WORKSHOP

LEGAL EXAMINATION WRITING WORKSHOP

WHAT THE WORKSHOP WILL DO FOR YOU

- Provide 12 hours of Intensive Exam Writing Techniques.
- Teach Exam Approach (including issue spotting techniques, issue headnotes, factual analysis and proper sentence structure).
- Develop Outline Organization Techniques within the purview of the Call of the Question (including identification of major/minor issues and fact to element application).
- Structure Adversary Arguments within the IRAC Format.
- Provide a Sentence by Sentence Analysis of six in-class hypotheticals.
- Explain the "Do's and Don'ts" of a successful exam answer.
- Provide an extensive 100 Page Writing Workbook. The material is not available anywhere in published form.

SCHEDULE OF SEMINARS...

LA County:
- Saturday, October 10, 1992: Noon-6:00 pm
- Sunday, October 11, 1992: Noon-6:00 pm
- Monday, October 12, 1992: Noon-6:00 pm
- Tuesday, October 13, 1992: Noon-6:00 pm
- Wednesday, October 14, 1992: Noon-6:00 pm
- Thursday, October 15, 1992: Noon-6:00 pm
- Friday, October 16, 1992: Noon-6:00 pm
- Saturday, October 17, 1992: Noon-6:00 pm
- Sunday, October 18, 1992: Noon-6:00 pm

FLEMING'S FUNDAMENTALS OF LAW

LONG TERM BAR REVIEW

Preparation for February, 1993 California Bar Exam Begins October 3, 1992

COURSE SCHEDULE:

Weekend One:
- 12 Hour Writing Workshop. (Emphasis on Analysis, Organization and Writing Techniques.)

Weekend Two:
- 14 Hour Additional Workshop.

Weekends Three through Sixteen:
- Saturday, Substantive Law, Approaches, Exam Application, Performance Review and Multistate Review.
- Sunday, Exam Analysis of Six Past-Bar Examinations, In-Class Writing of Three past-Bar Hypotheticals under Simulated Bar Conditions.

Weekends Seventeen and Eighteen:
- 32 Hour Additional Performance Workshop (instruction provided for writing Memos, Briefs, Letters and P/A's, as well as Closing Arguments/etc., with practice files and libraries). In-Class Writing of Performance Exam under Simulated Bar Conditions.

CLASS SITE AND COST INFORMATION:

- All Live Sessions will be held at Pacific Christian College, 2700 E. Nutwood Avenue (at Commonwealth), Fullerton across from California State University, Fullerton.
- Space can be shared.
- Total Price for the Long Term Review Course: $1,495.00.
- $150.00 non-refundable deposit will guarantee space and freeze price.
- Cassette Course is Available by Mail for the Registration Cost plus an Additional Fee of $225.

LONG TERM SCHEDULE OF CLASS MEETINGS:

October 3/4, 10/11, 17, 18, 24, 25, 31
November 1, 7, 8, 9, 10, 14, 15, 21/22
Break (November 23 through December 18)
December 19, 20, 26, 27
January 2, 3, 9, 10, 16, 17, 23, 24, 30/31
February 6, 7, 13, 14

FLASH!

July 1991 Bar Statistics
California State Average: 54.8% Pass Rate
Fleming's Bar Candidates Average: 77.5% Pass Rate
(For those who completed all course requirements)
59.7% Overall

February 1992 Bar Statistics
California State Average: 50.9% Pass Rate
Fleming's Bar Candidates Average: 65.5% Pass Rate
(For those who completed all course requirements)
Parking Lot From Heck!

By Christopher Scott Trunzo

Let me begin by expressing two concise thoughts: (1) Parking Sucks; and (2) There is Nothing You Can Do About It. Aha, you think as you aimlessly cruise the lots at 5:30, I'II just get here before everyone else does and get one of the truly prime spaces. Guess what? Your parents did, uphill, both ways. So what? Your AIMLESSLY cruising the lots at 5:30 is part of the problem, not part of the solution. Unless we stop this mad battle for parking now, we will, within a fortnight, be eating, sleeping and generally living in our cars, all to get the best possible space. What, short of the selective and judicious application of tear gas, is to be done?

Build A Parking Structure? Hah! The University is planning to build a structure some time before the turn of the century. Rumor has it that it will be placed somewhere between the soccer field and Zimbabwe. However, an amazing and wonderful tram will be making a run even three days before the structure and reality.

Force Undergraduates To Park Elsewhere? Why not? Not only do we pay more money to go here than they do, we will probably on the average earn more over the course of our lifetimes than they will. Think of the contributions that we, as alumni, would make out of gratitude stemming from ease of parking. Park On The Grass? Maybe not, our wannabe VP Big Al the Spotted Owl's Pal might take offense. If he and Bill Wild actually show for the hearing in 1992, October, they might be a bit perturbed to find a bunch of Detroit and Nagasaki iron scattered all over nature's creation because cars tend to leave unsightly and hard to remove oil stains on the grass. Even Lady MacBeth couldn't get those spots out.

Parking In The Administrators' Offices? That'll show them! Don't Come To School? Do you really need all the stress, pressure and angst? Look, you're getting older everyday; shouldn't you take advantage of your youth while you still have it? Stay home, chill out, watch Gilligan's Island. Get your friends to take notes for you. You can pity those poor wretches suffering the trials of the Socratic method while you yuck it up at the adventures of Gilligan and the Skipper too, here on Gilligan's Isle. Sure, you'll never become the millionaire that way, but some of them could become his wife, and I have seen several potential Gilligans wandering these halcyon halls.

Walden Undergraduates To Park Elsewhere? Why not? Not only do we pay more money to go here than they do, we will probably on the average earn more over the course of our lifetimes than they will. Think of the contributions that we, as alumni, would make out of gratitude stemming from ease of parking.

Why not just accept the parking for what it is, a crapshoot.

Lack Of Humor Gone? From the savage irreverence of the Sixties, our society has witnessed the decline and fall of the witty thrust. "Sensitivity" is the buzzword, and the result has been nothing short of idiocy. Case in point: "The Howard Stern Show.

Anyone who has ever seen Howard Stern or heard his radio show knows that the man has no class or taste. But it is precisely those qualities that make his show so unbelievably funny. For example, Howard has an associate named Suttering John. Suttering John is on the job to interview celebrities even though Suttering John asks are not very respectful. One interview with a baseball player consisted of one question: "Who do you think got hit on the chin with more balls, Yogi Berra or Rock Hudson?"

Tasteless, yes. Mean, perhaps. But undeniably funny.

So there I was, watching Howard at 1am, when an odd skirt came on. It was a spoof of "The People's Court," with a practicing attorney standing in for Judge Wagner and Howard Stern as the defendant. The plaintiff was a homeowner who had become upset after watching a particular skill Howard's show. The skit was "The Howie-wood Homeless Squares," a take-off of yet another game show, with homeless people as contestants. The plaintiff believed Howard had mistreated the homeless people because the grand prize was a shopping cart filled with aluminum cans, and the prize for winning the "secret square" was a new home-cardboard box.

The plaintiff sought an apology from Howard and a promise not to do it again. After listening to the plaintiff and Howard, and careful deliberation, the judge found that the plaintiff had no standing to argue on behalf of the contestants. He found for Howard, although he admonished him to "be more careful in the future."

So what's the point of all this descriptive, nonanalytic prose? To point out the lack of humor on the part of earnest, well-meaning liberals like the plaintiff. The plight of the homeless is a problem in this country, as is the use of cliques like "plaint of the homeless." But does that mean we can't make fun of our problems? P.J. O'Rourke summed it up nicely when he wrote that people who say we shouldn't make fun of certain things are right. But those who say we can't make fun of certain things are wrong, as anyone who has ever laughed at a starving-Ethiopian-jay would agree.

Now, right-wingers can be humorless too. They usually don't laugh at Monty Python's "Life of Brian" or Jimmy Breslin's "Collar."

OR, would you rather see the defendants get their cars on the best spots, and then complain about trivialities in lieu of upstairs? What, short of the selective and judicious application of tear gas, is to be done? Parking In The Administrators' Offices? That'll show them! Don't Come To School? Do you really need all the stress, pressure and angst? Look, you're getting older everyday; shouldn't you take advantage of your youth while you still have it? Stay home, chill out, watch Gilligan's Island. Get your friends to take notes for you. You can pity those poor wretches suffering the trials of the Socratic method while you yuck it up at the adventures of Gilligan and the Skipper too, here on Gilligan's Isle. Sure, you'll never become the millionaire that way, but some of them could become his wife, and I have seen several potential Gilligans wandering these halcyon halls.

Could you imagine the fun at finals? Perhaps, if you're really lucky the parents did, uphill, both ways. So what? Your AIMLESSLY cruising the lots at 5:30 is part of the problem, not part of the solution. Unless we stop this mad battle for parking now, we will, within a fortnight, be eating, sleeping and generally living in our cars, all to get the best possible space. What, short of the selective and judicious application of tear gas, is to be done?

100 mile walk be the perfect way to start off your busy school day?

Don't tell me, tell the Dean, tell the President, tell the Board, or tell it to the people who really count, the Contributors. Take your concerns to them and make them listen. If that sounds like too much work, try writing something for Motions --- they need the writers, can't you tell?

Mr. Trunzo is an overly spoiled second year student who loves to complain about trivialities in lieu of thinking about important things like jobs and school and jobs.

Editor's note: the opinions contained herein are neither the opinions of Motions, nor the author, nor the staff, nor the author. They are, in fact, the product of a fevered mind under the influence of a rotten potato.
BAR REVIEW:
Hollywood and Gringo, Still Thirsty

THE OLD OX
4474 MISSION BLVD. AT GARNET, PACIFIC BEACH

Hollywood: The venerable Old Ox is the best bar in Pacific Beach, bar none, and offers one an amazing array of tantalizing treats for the eyes, mouth, and, if lucky, touch. Upon entering, one is immediately surrounded by drunken, post-baccalaureate Greek dudes and beautiful, tan, semi-drunken women. The Old Ox emits a festive, spring-break ambience. On a warm night on the outside patio one might think one was in Palm Springs or south of the border. The Old Ox is the San Diego equivalent of Henry’s in Berkeley (a bar for a few shots) or Snezana’s in Westwood. In addition, this is the only bar in PB with its own parking lot, so those of you who still live by school or wander the desert in Mission Valley can drive straight there without spending the first half of the night wandering around my block looking for a parking spot.

Moore Court participants beware: exercise caution when blowing off members of the opposite sex who happen to be members of the California bar, lest they take revenge on you during oral argument. Just ask the 3rd year winner of the O’Connell’s hot legs contest.

Gringo: Oh please. Let’s face it - the Dumb Ox is just one of a million generic singles bars with a bad restaurant attached (correction: a REALLY bad restaurant). It’s left over from a bygone age of one night stands and easy love (happy days gone, but not forgotten). One might think that one has gotten one’s self in a time warp back to the seventies and could not get one’s big ol’ butt back to the nineties where one belongs. It has all the charm and characteristics of a standard franchised danceeteria except for the minor detail that it lacks an actual dance floor: small loss. And parking?! I’ve seen bigger parking lots at drive-thru taco stands. As for the Spring-Breakishness: I’ve had better Spring Breaks in the Law Library than I ever could in that Den of Naugthyde. The drinks were lame; most of the women were drop-outs from secretarial and beauty school; the men were all unemployed. It was also unbearably hot and overcrowded even by PB bar standards; not crowded in a good way, but more like crowded as in a Who concert or the Law School parking lot by 8:30. The Ox has absolutely no redeeming qualities. Avoid this place like leisure suits, like shopping with your Mom, like borrowing underwear.

BAREFOOT BAR & GRILL
1404 WEST VACATION ROAD (Somewhere south of Crown Point), PACIFIC BEACH

Hollywood: San Diego’s best kept secret. Possibly the finest place west of the Rockies to view the sunset. The patio features more tables than the men were all unemployed. It was also unbearably hot and overcrowded even by PB bar standards; not crowded in a good way, but more like crowded as in a Who concert or the Law School parking lot by 8:30. The Ox has absolutely no redeeming qualities. Avoid this place like leisure suits, like shopping with your Mom, like borrowing underwear.

GRINGO’S PICK O’ THE MONTH

Blind Melon's

710 GARNET AVE, PACIFIC BEACH

So there I was ... sitting in Mel’s, slurping Moosehead by the flagon, when Blind Bruce gave me a fine piece of advice to help me with my mid-life crisis (that’s 30 years old, not 40). Brucke told me (OK, he was singing it so he told everybody, but he MEANT it for ME!), “The nice thing about getting older is that the young girls look just as good as you always did ... but now the old ones don’t look so bad after all!!” What does this have to do with Bar Review? Nothin. It just made me think about getting older: it sucks. Avoid it. Mel’s on the other hand should most certainly not be avoided. It’s a fine spot to gather for many beerly beverages and to listen to the blues. The bands are always live and lively, the crowd always interesting. Yeah, that’s the word: interesting. The bikers aren’t nearly as fierce as they seem, and none of the other characters are particularly dangerous as long as you don’t swap bodily fluids with them (this would be a bad thing). The staff is delightful, the drinks designed for a student budget, and the cover charges eminently reasonable. Parking ain’t easy but it’s not as bad as on certain campuses which shall remain nameless. Overall, Mel’s is a good thing – a thing to be cherished like fine wine, a great pizza, or the memory of your first backseat adventure.

BIG NEWS: Moonoggie Is now open. Right near that other same tourist trap, the Jolla Hardrock, you can now find “MOZ: A Sporty Place.” I haven’t checked out the night life there yet, but the beer is good, the employees outstanding, the sports-watching equipment of top quality, and the food pastes muster with flying colors. Go there.
Professor Rice on Euthanasia: Final Solution to Moral Dilemma?

By D. Elisabeth Espy

Last week Professor Charles Rice of the University of Notre Dame Law School, who served on the U.S. Commission on Civil Rights, spoke in the Constitution and Natural Law. He specifically addressed the alarming recent trend in the law permitting euthanasia in an increasingly broad range of situations.

Professor Rice "predicts" a renewed interest in natural law thinking in response to laws which have legitimized the "killing of the innocent." He refers to laws which permit the killing of Nancy Cruzan, or euthanasia statutes such as Proposition 16 of California and of course Roe v. Wade. Rice identifies two analyti-cal approaches to this constitutional issue as legal positivism and natural law. Legal positivists assert that any properly enacted law is valid. It is law itself which defines right and wrong. The only alternative to this cynical view, claims Rice, is natural law. Natural law, in a nutshell, is a set of rules of moral conduct based on the nature of a thing itself. The good is that which is in accord with the nature of the thing. Every thing has a nature, and can fulfill its nature more or less well. A good watch tells time accurately, may be such a moral rule for human beings. Natural law, on the other hand, allows for deeper understanding. There are limits to the authority of the legislator which is meaningful to discuss whether or not a law is good or bad. Positive laws can be measured against higher, moral laws. According to Thomas Aquinas, the law "do not kill the innocent" is such a moral rule for human beings. Rice claims that laws which permit the killing of seriously brain damaged people orfortunes breaches this law. A comatose person, or one born with only a brain stem is, for Rice, the most innocent of persons, and must not be killed.

Rice discards the discredited and artificial distinction between active and passive euthanizing. The next step, he predicts, will be killing the innocent by lethal injection. What justification could be made for prolonging and sometimes excruciatingly painful death by starvation is preferable to a quick and painless end? Death is, after all, equally certain in both cases.

Rice moves from this uncon- formable prohibition to a more horri-fic. Our society is aging quickly. The fastest growing population in the United States is the over eighty-five years. We are already unable to provide basic medical care to a large portion of our population. Rice says that we can not draw a line between calling an embryo a human or not for chance no-tions.

On the Right

Privacy, Existentialism, and the Fall of American Democracy

By L. Lucarelli

This is the resurrection of Mark Bovovich's column, "Is the Right?". I have altered the name so as to sound slightly less pretentious.

Recently, Cindy Dobler and I were at Tio's discussing how to make America a better place to live. I suggested that the abol-ition of the constitutional right to privacy was the place to start. I believe it is also the place to start this year's series of "On the Right."

As most of us are aware, the privacy right was "discovered" by the Supreme Court in Griswold v. Connecticut (1965). Justice Douglas reasoned that "specific guarantees in the Bill of Rights have penumbras, formed by ema-nations from those guarantees." Justice Goldberg went even fur-ther by claiming that privacy was among those rights "so rooted in the traditions and conscience of our people as to be ranked as fundamental."

Stock in this new right has risen drastically since Griswold. Privacy has been invoked success-fully to strike down restriction on birth control (Griswold), abortion (Roe v. Wade), and pornography (Garcia v. City of Perea). It has also been used (unsuccessfully) in efforts to legalize drug use (Caschke v. Ike), and abortion (Bowers v. Hardwick) and eutha-nasia (Casran v. Director, Mis- souri Dept. of Health). The ubiqu-ity of litigation surrounding it is almost enough to make us forget that the right to privacy is, and always has been, a lie.

Privacy is said to come from the penumbras which emanate from the individual rights listed in the Bill of Rights. Rights. What exactly are these "penumbras"? Why are they only available to members of the federal judi-cy, and only after 1965? Isn't it far simpler to just say that it is a right we all have. See Privacy page 10

On the Left

Labor v. Fair Employment: Labor Commission Ill-Equipped to Handle Gay Rights Enforcement

By Judy Carbone

"The real point of the thing is to send a message that bigotry will not be tolerated in Califor-nia." - Staff Assistant to Gover-nor Pete Wilson on AB2601, the gay rights legislation that the Governor signed into law last week.

On its face, it all sounds great, but take a closer look at AB2601. Headlines touted the Governor's signing of the gay rights bill which ensured that there would be no discrimination in employment based on sexual orientation. He vetoed similar legislation (AB101) last year, claiming that last year's assem-bly bill would have hurt small businesses. With an exception for businesses with fewer than five employees, he signed AB2601.

So far, so good, but here is where the trouble begins: instead of amending the Fair Employment and Housing Act to include sexual orientation with other protected classes, the Leg-islature amended the Labor Code. The brief history behind this goes back to Wilson's veto of AB101. At that time, Wilson stated that homosexuals were already protected from employment dis-crimination, based on the Califor-nia court case that linked sexual orientation with political affili-a-tion. They were therefore pro-tected from discrimination by Labor Code sections 1101 and 1102. The unfortunate part of this method of reasoning is that it furthers the inaccurate presup-position that sexuality is something that people put on with their shoes each day. People's sexuality does not change with the color of their outfit, it is who they are.

The other difficulty which arises by placing the law under the Labor Code is that it is en-forced by the Labor Commission. See Labor page 5

Moot Court: A Plea for Competence, not Callousness

By Mark Bagula and Robert Little

Some fifteen percent of moot court contestants who spent Labor Day Weekend preparing a brief for the Alumni Moot Moot Court competition were denied the chance to argue in the competition. A vaguely written rule, strictly enforced against eight students who interpreted it in what appears to be an obvious fashion, was the source of phrase was natural. The students had signed up in order to get the problem; could this not be the required sign-up? The sign-up sheet was up on Tuesday and Tuesday only, yet the instructions said you must sign up "by this date," not "by 6pm" or "by the end of the day." No reference was made to this as a second required sign-up.

The Moot Court Board, which authored the instructions, interpreted their phrase to require a second sign-up on Tuesday the 9th, which was identified as Monday (Labor Day) in the instructions. Many more than fifteen percent would have failed to sign-up on Tuesday it was not for chance noticing of the sign-up requirement or to the Moot Court office door on Tues-

See Plea page 5

No exceptions." The mistaken date suggests nothing less than the sloppiness and carelessness in which the instructions were written.

The Excluded Participants read these instructions and, interpreting it to mean what it appeared to mean, thought the sign-up on the previous Wednesday was the sign-up required "by this date," and that the brief was completed and turned in on Wednesday the 10th, when it was accepted without comment. Participants had to sign up another time upon delivery of their briefs.

This interpretation of the phrase was natural. The students had signed up in order to get the problem; could this not be the required sign-up? The sign-up sheet was up on Tuesday and Tuesday only, yet the instructions said you must sign up "by this date," not "by 6pm" or "by the end of the day." No reference was made to this as a second required sign-up.

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day, attendance at a single, brief, optional orientation meeting when the packet was handed out, or pre-cious Moot Court participation.

This is where the story gets interesting.

On Thursday, with less than a week to go, members of the Moot Court Board were calling alumni and other local attorneys in find-judges for the competition. Facing difficulty in finding the number necessary to serve the large number of students who had turned in briefs and were therefore qualified to par-ticipate in oral arguments, the Board was faced with two choices: (1) The Hard Way -- find more attorneys to serve as judges and; (2) The Easy Way -- reduce the number of student contestants.

They selected the The Easy Way. The Excluded Participants were then called by members of the Moot Court Board and told they could not compete in the oral arguments. They were, however, encouraged to "par-ticipate in the Moot Court events." Translation: We're screwing you, but we hope you come back for more.

The Excluded Participants, angry over spending thirty to fifty hours over Labor Day Weekend only to be denied participation, tried to amend the rules of the Moot Court.

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Motions

October 13, 1992

Czar’s Corner

'Well Hung Jury’ Hanging On to Top Ranking

By Keith Cramer

It’s softball season once again and time for the competitive league mid-season preview. (Don’t worry Co-Rec participants, we’ll take care of you next issue.) The views expressed are solely those of the Czar, and he’s not inclined in hearing any whining about how your team should be ranked higher. Keeping that in mind, here’s the CPRF (Czar’s Purely Random Poll) rankings as of Oct. 6:

1. Well Hung Jury (4-0) — These guys were begging for the number one ranking after their most recent win, so here it is. (Hope Brad is happy now.) They are looking tough so far, but are way too snug for their own good. Although they appear to be the favorites, if the Czar were a betting man he’d be looking to class, until now. This year there are at least two or three teams worse than you. If you can get them down early, team dissention will break out more often than not. Don’t get me wrong though, Keith “I think I’m Muhammad Ali” Nussbaum has assembled a tough squad. Look for them to make a move up in the standings.

2. Czar’s Forces (2-0) - With forces like this it’s no wonder the Czarcai fell from power. They may no longer be called the “Marlins,,” but something still smells fishy. They do have the talent it takes to win the title, but they need to pull it together soon. The Czar’s personal favorite to win it all.

3. Weasel (1-1) - A year in the real world has turned these guys into a more shadow of the once formidable Weasel teams. Even with Rod “Ole” Carbello at the hot corner, however, this team has somehow always managed to pull out the wins when it counts. Look for them to be in the hunt come playoff time.

4. The Fixers (1-2) - These guys are going to become a first year teams. Hate to break it to you boys, but first year teams just don’t win titles.

5. WSU (1-1-1) - The Western “Who brought the steriods?” Team is looking to take home the title this year. They always manage to fall just short and this season will be no exception. Too many individual players doing their own thing. Lack of team play will be their downfall.

6. Undergrad Alumnun (1-1-1) - For some reason that eludes me, these guys have taken to calling themselves the “Skinz.” It’s only by the skin of their teeth that they are ranked in the top half, and it’s probably being charitable to rank them sixth. The jury is still out on this unknown and relatively untested team.

7. Torreoneaux (2-2) - With Ken (aka "The Master of the Moon Ball") looking like a sho-in for the Cy Young Award, you would think that these guys would be doing better. If they are going to become serious contenders their offense needs to become more consistent real soon. Prediction: Won’t break into the top five.

8. Glasses (2-2) - A year in the real world has turned these guys into a more shadow of the once formidable Weasel teams. Even with Rod “Ole” Carbello at the hot corner, however, this team has somehow always managed to pull out the wins when it counts. Look for them to be in the hunt come playoff time.

9. The Flickers (1-2) - These guys are their own worst enemy. If you can get them down early, team dissention will break out more often than not. Don’t get me wrong though, Keith “I think I’m Muhammad Ali” Nussbaum has assembled a tough squad. Look for them to make a move up in the standings.

11. Section B (1-2) - You guys serious contenders their offense looks to be a long season. Console yourselves with the knowledge that there are too many more of them. On the bright side, however, console yourself with the knowledge there are teams worse than you.

12. Section A (0-4) - This is a team that knows how to have a good time in the face of adversity. They would be just as happy to have a beer in their hand instead of a mitt. Who knows, maybe the beer would help; it’s obvious that the mitts aren’t serving any useful purpose.

13. Section E (0-4) - It’s good to see the evening section put a team together this season. Unfortunately for these guys, however, it looks to be a long season. Console yourselves with the knowledge that you still get to play against Sec. A.

A Ban on Notebooks?

By Lee S. Meyer

In nineteen years of schooling I have never seen anyone bring a computer into class until now. This year there are at least two or three students taking notes on their computers in each of my classes. Not since my high school typing class have I been subjected to such clutter.

During the renovation of the law library, the school purchased study carrels with electrical outlets for students to use notebook computers. Soon after the computer usage got going, students began complaining about the noise generated by the computer keyboards. The result was the current library policy which restricts computer use to either the information services area on the main floor or the “laptop” room on the second floor.

The electrical outlets present in most of the classrooms in the law school were installed before the advent of notebook computing. Nevertheless, these rooms could be used as typing rooms during exam time for those preferring to type their exams.

Two types of keyboards are currently available on notebook computers. “Push” keyboards de- liver a distinct clicking noise when each key is pressed. “Mush” keyboards are somewhat quieter in that they don’t click, but they are by no means silent. Although the industry is working on quieter keyboards, nothing silent is currently available.

Notebook sales are the fastest growing segment of the computer marketplace. Technological refinement and the desire to use equipment that is quieter, more portable and less expensive is forcing the notebook computer manufacturer to produce quieter keyboards.

Motions Top Ten

Top Ten Reasons Why the Presidential Debate Won’t Be at USD:

1. That gimpicky courtroom.
2. Staffers from both sides thought campus was in Tijuana.
3. Candidates couldn’t agree on next week’s Bar Review location.
4. Overwhelming number of on-campus interviewers leaves no room for media tents.
5. Bush camp was unsuccessful in obtaining influential Physical Plant endorsement.
6. Four out of five undergraders think the Republican Party involves legs.
7. Gripping fear that candidates may get roped into signing up for unwanted bar review courses.
8. USD’s proximity to Pacer’s may distract Clinton.
9. Republicans are stillsmarting from the Law School’s Ed Meese connection.
10. If their team is looking to take home the personal favorite to win it all.

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3. Multistate "Nuance Charts" - delineating the fine-line hornbook and Restatement distinctions commonly tested on the MBE.

4. Multistate "Flash Cards" - a deck of 366 cards designed as a capsule review for the Multistate (a $75 value).

5. Multistate audio cassette tape review (a $100 value).

6. PMBR 3-Day Multistate Workshop included ($295 value).

7. PMBR 6-Day "Early Bird" Workshop included ($425 value).


9. Multistate "Flow Charts" - diagramming complex Multistate principles and concepts in chart form.

10. 48 hours of in-class Multistate Workshop hours.


12. Essay Workshops (6 sessions) designed to improve your (1) issue identification, (2) organization and (3) legal analysis skills.

13. 18 hours of in-class Essay Workshop hours.


16. Essay Workshops conducted under the direction and tutelage of Prof. Richard Sakai, University of Santa Clara.

17. Prof. Sakai was voted Santa Clara's most popular professor in 1992.


20. PMBR allows unlimited graded essays.

21. PMBR gives extensive, meaningful critiques not merely brief and general comments.

22. PMBR Essay Workshop volume contains an additional 25 Essays that are reviewed and analyzed in-class.

23. All California Performance Workshops taught by Prof. Peter Jan Honigsberg, regarded as California's leading authority on Performance testing skills.

24. At most locations the Performance Workshops are taught Live.

25. Students are taught the "Honigsberg Grid" - a methodological approach teaching (1) time allocation, (2) fact gathering and (3) strategy.

26. PMBR California Performance Workbook - a compilation of actual past Performance tests with model answers.

27. PMBR California Performance Workshop volume that is reviewed in-class during Workshop sessions.

28. Students may submit an unlimited number of Performance Tests for individual grading.

29. Students receive two different sets of course outlines: (1) capsule outlines and (2) longer substantive outlines.

30. Capsule Outlines average approximately 50 pages per subject.

31. Substantive outlines are more in-depth and average 100 pages per subject.

32. Most Outlines are written by California law professors and specially designed for California bar exam.

33. Simulated California Bar Exam with 6 essay questions and 2 Performance tests administered over two consecutive days.

34. Simulated MBE exam administered as part of 3-Day PMBR Multistate Workshop.

35. PMBR substantive lectures are predominately Live at most major lectures.

36. Prof. Gail Bird (Hastings) conducts the Community Property lectures.

37. Prof. Keith Wingate (Hastings) conducts the Civil Procedure lectures.

38. Prof. Herbert Krinner (Southwestern) conducts the Wills and Trusts lectures.

39. Prof. Steven Hirschfield (Loyola) conducts the Corporations lectures.

40. Prof. Daniel Fessler (U.C. Davis) conducts the Contracts lectures.

41. Prof. Jeremy Miller (WSU - Fullerton) conducts Criminal Procedure lectures.

42. Robert Feinberg, Esq., recognized as the nation's leading Multistate expert, conducts the California Multistate lectures.

43. Steven Palmer, Esq., national Multistate expert, conducts many California Multistate lectures.

44. Jared Gross, Esq., nationally renowned Multistate specialist, also conducts California Multistate lectures.

45. PMBR has offices in San Francisco and Santa Monica to help service our students.

46. PMBR offers "Early Bird" lectures in the fall and spring semesters at various course locations to help prepare students for their law school exams.

47. PMBR conducts California bar review classes at 20 different convenient locations.

48. First and second year students can join PMBR for an enrollment deposit of $100 and receive a complete set of study aids which include: (1) flash cards, (2) outlines and (3) practice exam questions.

49. PMBR students had the HIGHEST REPORTED CALIFORNIA pass rate last year: 82%.

50. The Tuition Price: $995