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Red Light Cameras Challenged

An Unreasonable Search and Seizure?

By Jonathan Meislin
Staff Writer

Red light cameras are appearing everywhere. You know, those pesky little cameras installed at the busiest intersections, taking pictures of cars running red lights and sending the pictures (with a $271 fine attached) to the violators. Statistics show that the implementation of red light cameras has reduced the number of intersection collisions in San Diego by forty-four percent, and has raised millions in revenue. Although these devices may be just what cities need to reduce the dangers of the road, the "long camera of the law" is being forced to prove itself in the court of law. Multiple class actions have been filed challenging red light cameras; the lawsuits argue that the cameras are improperly operated and are a violation of drivers' rights. Two years ago, 290 tickets in San Diego were dismissed after Ronald Styn, a San Diego Superior Court Judge, claimed that the cameras were "so untrustworthy and unreliable that [they] should not be admitted." Late last year the Superior Court decision was upheld by a three-judge panel. If the rest of the suits are successful, courts across California may be forced to refund fines and throw out any currently existing citations. This may be good news to those who have fallen victim to the red light camera system, but it may be at the expense of traffic safety.

Motorists fighting the red light cameras often base their action on the alleged illegality of the privatization of the red light camera system. Many cities' red light camera systems are contracted out to private companies, which are paid by the citation. This practice goes against current California law which only authorizes the operation and maintenance of red light cameras by governmental agencies in conjunction with law enforcement. Until recently, San Diego's red light camera system's operation and development were contracted out to Lockheed Martin IMS, a private corporation, which was paid about $70 for every $271 fine collected by the city. In the San Diego camera suit, the plaintiffs claimed that Lockheed manipulated traffic light sensors and strategically chose intersections with shorter yellow lights for the purpose of generating revenues rather than ensuring public safety. A $400,000 settlement has been negotiated to refund class members. The San Diego ruling only applies to the citations in the class. No other judge or traffic commissioner is bound by the decision, though the decision is very persuasive (to find out if you are a part of this class action, visit www.redlightcases.com).

In response to the litigation, San Diego modified its red light camera system last June to include a camera that will take a picture of the rear of the motorist's car, rather than just the front, and will eliminate any financial incentives to private companies. City officials believe this will cure the defects found by the San Diego Superior Court.

Other systems have also been met with critical scrutiny. San Francisco's red light camera system is currently under review, and its legality is expected to be decided upon shortly. The San Francisco class action contests the legality of the pictures, which are photographs taken without witnesses; which capture the front not the rear of motorist's cars; and which fail to include the red light in the picture. The clarity of the pictures along with the absence of a witness to confirm the red light call for much speculation. Furthermore, in northern California, there is no right to appeal red light traffic camera citations; thus a presumption of guilt without judicial review is created.

California's legislature is currently working on amendments to improve red light camera laws. The legislature may have precluded cities from allowing privatization of red light camera systems in the future through the enactment of the Red Light Reform Bill, AB 1022. Although this bill prohibits cities from paying private companies by the number of tickets given, it allows current systems to be grandfathered in. Nevertheless, critics still claim that the cameras constitute an unlawful search and seizure, an invasion of privacy, as well as eliminate one's ability to confront his or her accuser. The future of the red light camera is still anyone's guess.

Careers in the Law

Don't Miss This Event! The Alumni Advisor Program, "CAREERS IN THE LAW," on Wednesday, February 4, 2004, from 4:30PM to 7:00PM at the University Center Forum. Hors d'oeuvres, beer, wine and soda will be provided. Sign up to attend!!!

This is an excellent opportunity to meet USD alumni practicing in San Diego and Orange Counties. The program begins with an alumni panel presentation, followed by an informal reception with alumni. Discuss litigation and transactional careers, salary profiles, employer expectations, the San Diego and Orange job markets, court room experiences, attorney lifestyles and more. We will have tables with alumni representatives from various areas of practice, such as: employment/discrimination law, public interest, real estate, estate planning, general business/corporate counsel, environmental law, appellate practice, general litigation/insurance defense, family law, solo practice, immigration/international law, government law, tax/bankruptcy, intellectual property law, criminal law, judicial clerkships and alternative/non-traditional law careers.

To attend, sign up at the alumni relations office (Room 112) or career services (Room 111) by Thursday, January 29. If you have any questions about the event, please contact the alumni relations office, at 260-4692, or lawalum@sandiego.edu.

University of San Diego
SCHOOL OF LAW

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From the Dean's Corner:

Welcome back to a new semester and a new year. Our semester is already well underway and a busy schedule of classes, meetings, programs, and activities has begun. Earlier this month, USD was well represented by our law faculty who participated as speakers, panelists, or discussants at the Annual Meeting of the Association of American Law Schools in Atlanta. In addition to gearing up for the new semester, members of the faculty and administration held an all-day retreat to consider the state of the law school and begin discussions and preparations for the joint ABA-AALS site inspection which will take place in 2005.

We are pleased to welcome back Distinguished Visiting Professor Carl Auerbach who begins his 20th spring at USD as well as his 56th year in academia. Professor Auerbach will teach *Law of American Democracy*. Other repeat spring visitors are M. Carr Ferguson (senior partner in the New York City law firm of Davis Polk & Wardwell) teaching *Corporate Reorganizations*, the Honorable David Laro (United States Tax Court) teaching *Valuation*, Walter Raushenbush (Emeritus Professor at the University of Wisconsin Law School) teaching *Real Estate Finance*, Richard Speidel (Beatrice Kuhn Professor of Law at Northwestern University School of Law) teaching *UCC: Sales* and *International Arbitration*, and now-permanent member of our spring faculty Yale Kamisar (Clarence Darrow Distinguished University Professor of Law at the University of Michigan) teaching *Criminal Procedure I*.

Paul Frymer, Associate Professor at the University of California, San Diego, Department of Sociology and the Law and Society Program, travels down the coast from La Jolla to teach the timely course, *Election Law*. Frank Kemerer, Visiting Professor of Law and Education at the University of San Diego, and Regents Professor of Education Law and Director of the Center for the Study of Education Reform at the University of North Texas in Denton, offers *Education Law*. Connie Rosati, Assistant Professor at the University of California, Davis, Department of Philosophy, and specialist in ethics and social and political philosophy, teaches *Constitutional Law* and *Constitutional Adjudication*. Professors Jane Henning, Paul Horowitz, and Graham Strong, complete their year-long visits to the Law School with spring offerings of *Cyberspace Law, Legislation,* and *Criminal Law,* respectively. A new course offered this spring is *Law and Spirituality*, co-taught by Professor Steven Hartwell, USD Law, and The Rev. Allisyn Thomas, formerly a San Diego Deputy City Attorney and currently Director of Spiritual Formation at St. Paul's Episcopal Cathedral. The one-unit class brings together law students and practicing attorneys to explore the connection between the practice of law and spirituality.

The law school will host distinguished speakers this spring at Institute of Law and Philosophy lectures, roundtables, and debates and at Law, Economics and Politics Workshops; we will welcome United States Supreme Court Justice Antonin Scalia for the McClennon Moot Court Honors Competition in February, and his brethren, Justice John Paul Stevens will be the distinguished Nathanson Lecturer in April. The Law School 50th Anniversary Gala Celebration on April 24, will top off an All-Alumni Reunion weekend of activities from April 23-25. Opportunities to attend these and other less-scholarly events (the spring Dean's Social/Kegger) will abound, so watch mailboxes and notice boards for information.

Law Practice in Mexico and Europe

The University of San Diego begins its clinical program with law firms in Mexico City. This four-credit program is for persons fluent in Spanish and will immerse students in law firm life, advising companies on international trade, licensing intellectual property, or making direct investments abroad.

There are also international business clinics in Barcelona, Moscow and Paris where students work in law firms and in London, where students work with barristers or solicitors. The firm experience is supplemented with seminars. Alternatively, students can study by the English tutorial method at Oxford, researching and writing papers and discussing them one-on-one with Oxford dons.

USD offers summer law study programs in Barcelona, Dublin, Florence, London, Mexico City, Moscow-St. Peterburg, Oxford and Paris. It is possible to combine two programs to obtain ten credits in the summer.

For further information, write Ms. Cindy King, USD Law School, 5998 Alcala Park, San Diego, CA 92110-2492, 619-260-7460, 619-260-2230 (fax), cking@sandiego.edu, or at our website www.sandiego.edu/lawabroad.

The Question of Competing Victimization

Whose diversity should we tolerate in the workplace?

By Nicole Rothstein
Staff Writer

On January 6, 2004 the U.S. Court of Appeals for the Ninth Circuit ruled that an employee fired for posting scriptural passages condemning homosexuality in his work cubicle was not discriminated against because of his religious beliefs. Judge Stephen Reinhardt upheld summary judgment against Richard D. Peterson in his religious discrimination action against Hewlett-Packard under Title VII of the Civil Rights Act of 1964.

Peterson posted his messages shortly after Hewlett-Packard began a diversity tolerance campaign that featured posters with pictures of individual employees with captions such as "Old," "Gay" and "Hispanic." According to Peterson, it was his religious duty "to expose evil when confronted with sin" and so he was required to respond to the "Gay" poster in particular. He posted several scriptural passages condemning homosexuality within his cubicle, with type large enough for other employees to read.

After seeing Peterson's messages, Hewlett-Packard managers met with him and advised him that his messages violated company policy barring "comments or conduct relating to a person's race, gender, religion, disability, age, sexual orientation, or ethnic background that fail to respect the dignity and feeling of the individual." But Peterson would not agree to stop posting them unless the "Gay" poster was also removed. The company eventually fired him.

What makes this case of particular note is that it squarely pits two sets of anti-discrimination interests against each other: Hewlett-Packard's interest in avoiding workplace discrimination based on sexual orientation and Peterson's right to have his religious faith accommodated in the workplace.

At first glance, Peterson's claims of religious discrimination seem shaky at best, as the evidence unequivocally indicated that it was the anti-gay content of plaintiff's poster -- not the fact that it quoted from the Bible or referenced Christianity -- that led HP to demand its removal. In fact, Peterson's disparate treatment claim ultimately failed because, according to Judge Reinhardt, he "offered no evidence, circumstantial or otherwise, that would support a reasonable inference that his termination was the result of disparate treatment on account of religion."

Under Title VII, the federal workplace anti-discrimination law, an employer can treat all employees alike and nonetheless be liable for religious discrimination. Employers have an affirmative legal obligation reasonably to accommodate employees' religious practices, unless such accommodation would inflict an undue hardship upon the employer's business.

According to Sherry Colb, a professor at Rutgers Law School and author of "When Types of Discrimination Compete for Legal Recognition: Should Anti-Gay Religious Practices Be Accommodated in the Workplace," the notion of an oppressed person persecuting another oppressed person is often difficult for people to assimilate. And when we do encounter it, we are not quite sure how to handle it. For an employer such as Hewlett-Packard, there is an especially acute dilemma, because the company can be held responsible both for permitting religious workers to create an environment hostile to homosexuals and for firing or otherwise disciplining religious employees who attempt to practice their faith by expressing opposition to homosexuality. Under such circumstances, accommodating diversity can lead to a Catch-22.

In the end, Peterson's claim that the company should have accommodated his religious convictions instead of firing him also failed. According to the court, Hewlett-Packard could not be required to make either of the accommodations Peterson indicated he would accept—permitting him to post his scriptural messages alongside the company's poster or eliminating references to homosexuality from the workplace diversity campaign. Judge Reinhardt declared "Either choice would have created undue hardship for Hewlett-Packard because it would have inhibited its efforts to attract and retain a qualified, diverse workforce, which the company reasonably views as vital to its commercial success; thus, neither provides a reasonable accommodation." The court was quick to note, however, that fostering tolerance will inevitably ruffle someone's feathers, and that not every expression of disapproval for the diversity posters could legitimately qualify as an undue hardship.

Professor Colb believes that the Ninth Circuit handled the conflict well because "it made clear that while every person is entitled to his or her own views, whether religious or secular, no one has the right to persecute other people at work in the name of her religion." According to Colb, tolerance may ultimately be antithetical to the absolutism that often animates strong religious commitments, but to the extent that it is, absolutism must give way to the rights of other law-abiding citizens to exist and flourish as equals in our society.

Christ T. Troupis, who argued Peterson's case on appeal, stated that the court had been extremely hostile to their position on freedom of expression in the workplace throughout the trial. Noting that Peterson posted only Biblical verses and never spoke with any of his coworkers about his views, Troupis added: "They were either saying that the words used in the Bible alone are offensive and hurtful and therefore prohibited, or that his thoughts were offensive and hurtful, and therefore prohibited. They're either the thought police or they're prohibiting any religious expression whatsoever in the workplace."

The case is *Peterson v. Hewlett-Packard Co.*, 01-35795.

TIPS ON TRIPS

Illegal Wildlife Souvenirs

(NAPS)—Visiting the Caribbean? Be careful when it comes to souvenir purchases, warns World Wildlife Fund.

Every year, U.S. law enforcement officials seize thousands of illegal items from travelers returning from vacation and sometimes impose fines on violators.

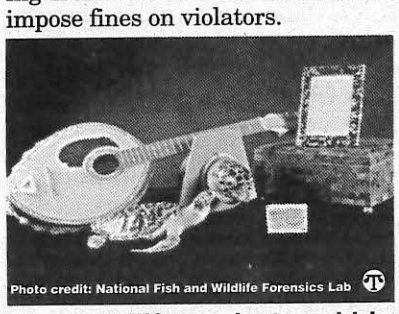


Photo credit: National Fish and Wildlife Forensics Lab

Many wildlife products sold in the Caribbean may not be brought into the U.S.

Many illegal souvenirs are made from endangered species; often, wildlife products sold overseas cannot be brought into the United States, or require permits to do so.

"Unsustainable trade is wiping out some of the very wildlife and habitat that travelers go to the Caribbean to enjoy," says Leigh Henry of TRAFFIC, WWF's wildlife trade monitoring network.

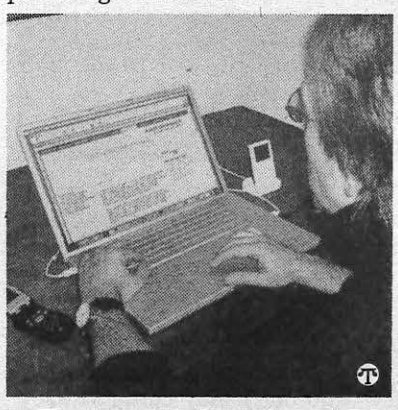
More than four million Americans visit the Caribbean yearly, spending an average of $2,362 each. A new brochure called "Buyer Beware" published jointly by WWF's TRAFFIC and the U.S. Fish and Wildlife Service, lists products to avoid in the Caribbean:

- all sea turtle products
- all spotted cat skin products
- certain leather products from caiman, crocodiles, lizards and snakes
- most live birds
- some corals and coral products
- certain orchids and cacti

To learn more, visit www.worldwildlife.org/buyerbeware.

Sarbanes-Oxley Act

(NAPS)—A national survey of not-for-profit business leaders and executives by Grant Thornton LLP finds that Sarbanes-Oxley has had little effect on not-for-profit organizations.



The Act, signed into law in July 2002, introduced stringent new rules with the stated objective: "to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws."

"While Sarbanes-Oxley is not a mandate for not-for-profit organizations, many believe that the requirements and guidelines stated in the Act set a standard or benchmark that not-for-profit organizations should consider emulating," says Bob Leavy, Grant Thornton's national managing partner for the Not-for-Profit Industry Practice. "Those organizations that adopt these governance standards may be seen more favorably by donors and funders."

Highlights from the survey include:

- Only 20 percent said that they have made some changes to their board governance policies as a result of Sarbanes-Oxley.
- Only 38 percent of respondents have had discussions with their board members about the implications of Sarbanes-Oxley.
- 90 percent of the respondents have not made any changes to the composition of their audit committee as a result of Sarbanes-Oxley.
- Just 17 percent of respondents indicated that they have a "whistle-blowers" policy and, of those who don't, only 21 percent said that they are considering adopting such a policy.

For more information

To order a copy of the Grant Thornton Board Governance Survey for Not-for-Profit organizations, send an e-mail to nfp@gt.com.

CONFLICT, GENDER, AND HUMAN RIGHTS: LESSONS LEARNED FROM THE FIELD

U.S. AMBASSADOR SPEAKS AT KROC INSTITUTE

By Damien Schiff
Editor

Continuing its Distinguished Lecture Series, the Joan B. Kroc Institute for Peace and Justice presented Ambassador Donald K. Steinberg in a lecture entitled *Conflict, Gender, and Human Rights: Lessons Learned from the Field*, this past Wednesday, January 14, at the Institute's majestic home on the west end of campus. Ambassador Steinberg, a career diplomat and current Director of the State Department's Joint Policy Council, spoke to a capacity crowd in the Kroc Center's auditorium, providing his listeners a *tour d'horizon* of the Bush Administration's foreign policy, especially as it relates to women and women's issues.

Ambassador Steinberg was introduced by Dr. Joyce Neu, the Institute's Director. Dr. Neu related to the audience Ambassador Steinberg's impressive credentials: State Department official since 1975, and presently a minister-counselor; former U.S. Ambassador to Angola; former Deputy White House Press Secretary; and former Presidential Special Representative for Global Humanitarian Demining. The ambassador is also the recipient of several signal honors, among these the Hunt Award and the State Department's Distinguished Service Award. Ambassador Steinberg was graduated from Reed College with his bachelor's, the University of Toronto with his master's in political economy, and Columbia University with his master's in journalism.

The ambassador began his prepared remarks with a short tribute to Mrs. Kroc, her philanthropy and love of peace. Addressing the substance of his presentation, Ambassador Steinberg remarked that in 1975 he left blue jeans for pinstripes and signed up with the State Department; in a word, he went "from studying Søren Kirkegaard to working for Kissinger."

Emphasizing the epoch-changing quality of the September 11 attacks, the ambassador argued that the isolationism of the 1990s has been permanently laid to rest. Indeed, the post September 11 era reminded Ambassador Steinberg of his youth growing up in Los Angeles, and how his school teachers would require the children to "duck and cover" so as to be prepared for a possible nuclear attack. The ambassador wondered aloud how even an expertly conducted "duck and cover" move could ever protect someone from a nuclear attack.

That kind of thinking has got to go. The United States, he argued, must heed President Bush's call to assert always in dealing with foreign nations the "nonnegotiable demands of human dignity."

Turning to the conflict in Iraq, Ambassador Steinberg admitted that building democracy in that country cannot be effected by "quick fixes." Nonetheless, we should accentuate the positive; and of the positives there are many, he argued: 25 million people freed from wretched tyranny; threats posed by weapons of mass destruction eliminated; a terrorist-harboring regime toppled; a world threat laid low.

Notwithstanding America's accomplishments in Iraq, Ambassador Steinberg reminded his listeners that the overarching goal of U.S. foreign policy must always be conflict avoidance and conflict resolution. Peacetime programs are essential to that goal. Along these lines, the ambassador mentioned that Americans give privately twice as much money to foreign countries as does the U.S. government. But the U.S. "must match generosity with foresight."

The ambassador spelled out seven factors to be used in evaluating potential areas of future conflict:

1. Political participation and responsiveness
2. Population, education and unemployment
3. Religious and ethnic tolerance
4. Location
5. Military control
6. International engagement
7. Upheaval in the last fifteen years

Each of these factors helps a policy maker in identifying those places that may prove problematic to the spread of liberty and wealth in the developing world. To root out nascent threats, the U.S. provides a number of programs to third world countries. The ambassador cited the Water for the Poor and the Clean Energy Initiatives, as well as the Millennium Challenge Account, as examples of American overseas beneficence with a foreign policy aim.

Speaking directly to the issue of women and American foreign policy, Ambassador Steinberg noted that the presence of women in peace negotiations always elevates the quality of the discussion. Accordingly, the U.S. urged for the presence of women in the peace negotiations following the war in Afghanistan. The ambassador expressed skepticism at the notion of amnesties, which often "may mean that men forgive men for atrocities against women." He

Please see **KROC INSTITUTE** *at next page*

CHESS FACTS & FIGURES

National Chess Survey Reveals The Truth About Chess: Why People Play And What Scares Them Away

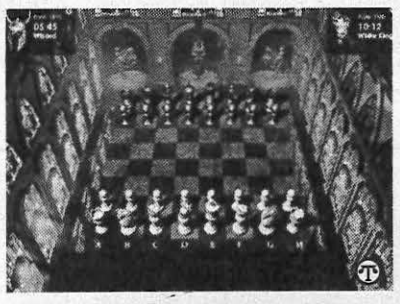
(NAPS)—Do you think you know chess? According to a survey conducted by Greenfield Online for Fluent Entertainment, a leading developer and publisher of interactive entertainment software, you probably know the stereotypes, but not the reality of chess in the U.S. today.

Over a two-day period, men and women, old and young, rich and poor, chess players and non-players, weighed in for a national survey on chess, which according to the U.S. Chess Federation is now played by 39 million people in the U.S.

Debunking popular assumptions about chess and the people who play the game, only 11 percent of chess players and non-players associate the game with a "geeky pastime." In fact, the vast majority of people—81 percent—associate chess with strategic thinking and there's nothing geeky about that.

Indeed, almost 60 percent of chess players believe that chess makes them better negotiators, while more than half of non-chess-players believe they would be better negotiators if they played the game. Many older Americans believe chess improves their life, while younger Americans think it helps in school.

And while the competitive nature of chess tournaments grabs most of the headlines and makes for good Hollywood plotlines, it turns out only 26 percent of people play the game "to win."



An increasing number of people are finding out how much fun playing chess can be.

Instead, 80 percent of men and women cite "fun" as the number one reason they play chess.

So how do you get those fearful few who don't play chess already to start? Not suprisingly, sixty-eight percent of people believe that if chess were easier to learn even more people would play.

Today, there are countless ways to play chess—on the board, online alone or against another player somewhere in the world, on PDAs and on the PC. New to the market is Hoyle Majestic Chess, a PC and online chess game featuring an interesting new twist on the game: an adventure chess module that easily teaches chess and builds confidence in young and old players alike.

However you do it, take another look at chess and have some fun while building your negotiation and strategy skills. For more information about chess and chess adventure, check out www.majesticchess.com.

PETS & PEOPLE

Is Man's Best Friend Missing You? Make it a "Doggie Date Night"

(NAPS)—Does your pup have a case of the missing-you, bow-wow blues? The majority of owners believe their dog would benefit from more attention. But how do you find quality time to spend with your pet? Turns out, a "doggie date night" may be the way to go. While Fido may be nothing but a hound-dog, there's no reason for him to spend every Saturday night alone.

According to a recent survey conducted by the American Kennel Club (AKC) and The Iams Company, nine of 10 dog owners feel their dogs would benefit from more one-on-one time with them. And, almost 50 percent said their dogs actually watch TV.

With this in mind, ideas for a "doggie date night" begin to take shape. Start by choosing a program that will entertain you both: the *AKC/Eukanuba National Championship*, airing on Animal Planet, Jan. 31 at 8 p.m. (EST/PST). Then, kick back in your favorite easy chair, grab some snacks—for both you and your pets—and tune in together.

Featuring the largest cash prize in the world of dog shows, the *AKC/Eukanuba National Championship* is the No. 1 rated dog show in the history of Animal Planet (which incidentally is the network 62 percent of owners said their dogs watch most often)! The show is guaranteed to offer you and your dog a lot of tail-wagging, nonstop canine competition as the dogs and handlers vie for their

Make a "doggie date night" with your four-footed friend.

portion of the $225,000 prize money plus a Suzuki SUV.

So what would your dog do if he won the top prize of $50,000? The survey found more than 66 percent of owners thought their dogs would hire them to stay home every day if they won the grand prize. How's that for wishful thinking?

To get the most out of your "doggie date night," a free viewer's guide is available by calling Iams at 1-800-566-5038. It features useful information about dog shows, such as what judges look for, as well as dog show lingo and rules of the show.

So while the spotlight shines on some of the most beautiful, well-trained dogs in the world, take a little time to shower attention on the "best in show" winner in your home. To find out more about the *AKC/Eukanuba National Championship*, visit www.akc.org or www.iamsco.com.

KROC INSTITUTE, ***continued from page four***

cited the example of the warring sides in Angola, whose forces, in an apparent abundance of forgiveness, gave each other amnesties for any *future* crimes.

Women's issues were formerly considered a "soft side" of American diplomacy. No more, argued the ambassador. Rather, these issues are now considered essential to the country's national security, so much so that Secretary of State Colin Powell devoted an entire article in a recent State Department Magazine edition to women's issues and their importance to American foreign policy.

Having concluded the formal portion of his talk with an exhortation to private citizens to continue their own efforts to bring about peace, Ambassador Steinberg was presented with a number of provocative questions from a partially hostile audience.

Asked whether, like Norway and the Netherlands, the U.S. has embassy personnel expressly devoted to women's issues, Ambassador Steinberg replied that strictly speaking no, such positions do not exist, but every foreign service officer abroad is challenged to address women's issues.

One audience member asked how the Bush administration's pro-life position could be reconciled with women's "reproductive rights." The ambassador answered that the U.S. has always been involved in fostering mother-child health overseas, and is a generous donor to the United Nations population fund.

Another audience member inquired why the U.S. has not signed the Anti-Land Mine Treaty. Ambassador Steinberg replied that the treaty would not permit land mines along the North-South border on the Korean peninsula, which the U.S. desires. Moreover, the treaty might be read to proscribe a certain type of anti-tank mine of which the U.S. is in favor. The ambassador, in answer to the catcalls of some in the audience, noted that the Clinton administration opposed the treaty for the same reasons.

When asked how a career diplomat accommodates the changes in foreign policy that come with new presidential administrations, Ambassador Steinberg replied with a smile, "as delicately as possible."

On the Iraq invasion and the issue of weapons of mass destruction, the ambassador underscored that the invasion was not unilateral, but consisted of a coalition of over seventy countries. At this point, more catcalls and boos were heard. The ambassador continued, arguing that such weapons were known to have been in Iraq within the last decade and today remain unaccounted for. Many in the audience were unsatisfied with the answer, and continued their occasional hooting.

One man asked whether the Baath party or Saddam Hussein ever posed any threat to the United States. The ambassador replied that, thanks to U.S. action, presently the Baath party poses very little threat, and that Saddam Hussein presents no threat to the United States. This last declaration was met with loud applause by some audience members; others remained grimly silent.

Ambassador Steinberg also fielded questions on the International Criminal Court, Saudi Arabia and Wahabi-ism, Kashmir, and life in the Foreign Service. Following the somewhat acrimonious q & a, all present were treated to a splendid reception in the Institute's foyer. It is something remarkable to this reporter how a good bottle of white wine, a wheel of odoriferous cheese, some savory artichoke dip, and a few scrumptious crab cakes, can manage to smooth over an evening's cantankerousness.

California News And Notes

California State Parks in Peril

by Barbara Hill

(NAPS)—California's State Parks are in peril.

Our State Parks system, at 277 strong and the largest in the nation, is the country's crown jewel of parks.

But, over the past two years, the California Department of Parks and Recreation has had to implement a series of budget cuts amounting to about a 20 percent reduction in its operating budget. Those cuts have had an even greater impact as park visitation increased to more than 80 million people last year and more than 45,000 acres were added to the system. This occurred with no increase in the Department's support budget to cover the costs of opening these areas. As a result, 180 positions have been eliminated, hours of operation curtailed, with maintenance reduced and historic areas and natural habitats in jeopardy. Most recently, the wildfires in Southern California, the most devastating in the State Park's 139 year history, destroyed more than 30,000 acres of parkland. Cuyamaca Rancho State Park was all but wiped out and both Anza-Borrego Desert State Park and Silverwood Lake State Recreation Area were damaged extensively.

Our magnificent State Parks continue to offer access to California's most remarkable natural and cultural treasures to millions of citizens and visitors from around the world. In the last two years, visitor spending in local communities has generated more than $2.6 billion annually. For every dollar invested in our State Park System, $2.35 is generated to California's general fund for the benefit of all Californians.

State Parks need greater flexibility to generate revenue to keep parks open, maintained and staffed.

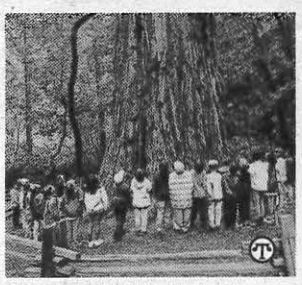


photo credit Frank Balthis

Things may be looking up for California's State Parks if more citizens encouraged the legislature to protect park funding.

Certain parks, which offer prime locations, have full usage nearly year round. Other parks, because of their remoteness, climate or other reasons, never attract the same volume of visitors. By having the flexibility to link the fees more closely to market forces, the Department could raise camping fees in parks that have greater demand and still charge less than comparable private campsites in the areas that often cost twice as much.

Currently, there is a cap on fee revenue State Parks is allowed to keep in its budget for the support, enhancement and health of its system. If State Parks are allowed to operate in a more business-like fashion, and revenues from fees are earmarked for the Department's core programs areas, State Parks can address its facilities, program and maintenance shortfalls. Right now, State Parks' funding for facilities maintenance is at just 30 percent of its actual need.

As State Parks' deferred maintenance backlog rises, currently more than half a billion, a dedicated fund source needs to be created that would keep parks operating and healthy in good and bad economic times. Various options should be explored, such as an endowment that would help pay for some services, leaving fee revenue to pay for others or a permanent revenue stream.

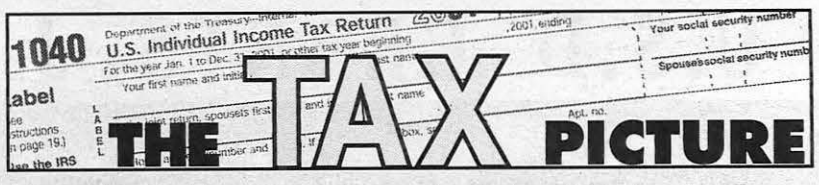
In addition to funding challenges within the system, State Parks are subjected to a variety of external threats from the infrastructure needs of growing communities. Proposals for toll roads, rail lines, trailer parks and habitat fragmentation are just a few of the examples of the threats to many plants and animals, and to the very idea of parks as places of peace, tranquility and restoration. State Parks need protection from ill-conceived development, and the public and the legislature should have the opportunity to review "non-mission" use proposals for their sustainability.

What can one person do? A lot. We can write our elected officials, telling them to protect funding for parks. We can volunteer to help the parks, through organizations such as the California State Parks Foundation. And we can also increase personal donations. But, with budget scrutiny happening as we speak, we need to let the State know, now is the time to step forward and provide appropriate permanent funding that meets the needs of our state parks.

State Parks provide adventure, renewal and inspiration, education, historical and cultural awareness and recreation to all. Californians must protect the countless treasures found within our parks or State Parks will cease to be the places where cherished memories are made.

To volunteer or make a donation to help State Parks, contact the California State Parks Foundation at *www.calparks.org.*

Barbara Hill is Acting Director of California State Parks Foundation.



Five Nasty Tax Surprises And How To Avoid Them

by MSN Money expert, Jeff Schnepper

(NAPS)—The Internal Revenue Code can be full of nasty surprises. Here are five to watch out for.

1. The responsible party surprise: Congratulations! You've been invited to serve on a prestigious nonprofit's board of directors. Surprise! You've just exposed yourself to potential taxes that can't even be discharged in bankruptcy. It's called the "responsible party" rule. If your charity has employees, taxes have to be withheld on their pay. If not, the IRS can go after the charity and anybody serving that organization who qualifies as a "responsible party."

Fortunately, there's a special exemption for unpaid volunteer board members of charities not involved in the day-to-day financial activities of the organization, and with no knowledge of the failure to fork over the taxes.

2. The debt-discharge surprise: You told your credit card companies that, unless they reduce your debt, you're going to file for bankruptcy. They lowered your liability by $5,000 so you can pay off the balance over 24 months. Surprise: That reduction is now ordinary income to you and could cost you as much as $1,750 in additional income tax. Unless sheltered by the umbrella of bankruptcy, debt reduction represents accession to wealth and is considered taxable income.

3. The Social Security surprise: Depending on your income, as much as 85 percent of what Social Security pays you may be subject to income tax. The government says you're getting your contributions returned tax-free in the 15 percent not taxed.

4. The unemployment surprise: Like many others, you lost your job. At least you have unemployment. Here's the surprise. Unemployment is taxed like any

You may be a responsible taxpayer, but the U.S. tax code is filled with complexities that can blindside you and cost you money.

5. The marriage surprise: Joint and several liability. Most married couples file joint returns which normally provide a lower total tax for the couple than they would pay if they filed separately. Filing jointly, however, creates "joint and several" liability: both, or either spouse, is responsible for the full tax.

Let's say two years ago, you filed a joint return. Last year, you divorced and have no idea where your "ex" is. The IRS audits your joint return and discovers he had a job and didn't report $20,000 in cash income. The IRS now wants all of the taxes owed from you. You signed the joint return—you're liable for the taxes.

You can ask the IRS for relief as an "innocent spouse" if: You did not and had no reason to know about the understatement and it would be inequitable to hold you responsible for the deficiency.

You apply using Form 8857, downloadable from the MSN Money Web site.

For more tax resources and tips, visit MSN Money at www.money.msn.com or use the tax tools in Microsoft Money software.

• Jeff Schnepper writes for MSN Money

FROM THE EDITOR—Continuing our look back into the law school's past during its fiftieth anniversary year, *MOTIONS* reprints this issue articles from several past editions: one commemorating the first juris doctor degrees awarded by the school, from February 1965; another, from April 1971, announcing a sabbatical of Professor Darby's; and a third, from September 1973, reporting on the work of Professor Siegan.

Darby Plans For German Sabbatical

Professor Joseph Darby has announced plans to study in Germany next year on his sabbatical leave.

He intends to do research in the area of Comparative Constitutional Law, focusing on an investigation of how the human and social problems of different nations are manifested in constitutional terms.

Professor Darby will do the bulk of his research at the Max Planck Institute in Heidelberg, a center for the study of foreign public law and international law. He also plans to visit other Max Planck Institutes, including the ones located in Hamburg and Freiburg.

While in Germany, he hopes to visit the German Federal Constitutional Court at Karlsruhe, and possibly do additional research there.

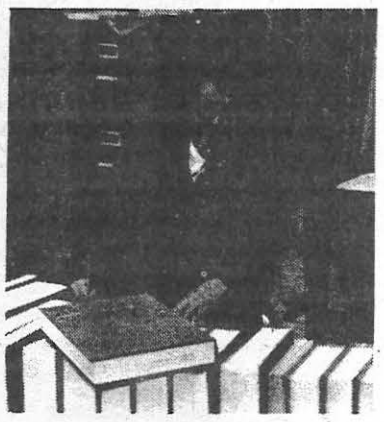
Professor Darby is no stranger to Germany. As a Fulbright Award recipient, he did graduate study at the University of Cologne in 1963-65, culminating in a Doctorate in Law degree. While there, he also completed his dissertation for a Ph.D, which he later obtained from Columbia University.

Professor Darby's educational background also includes a Bachelor of Science in Russian from the Georgetown University School of Foreign Service, an M.A. in Political Science from Columbia, and his LL.B. from the Fordham University School of Law.

From 1960 until his departure for Germany in 1963, he taught Russian and German at the University of Denver, and as a member of the Colorado Bar, he participated in the defense of indigent criminal offenders in the Federal Courts, for which he received no compensation.

After returning from Cologne in 1965, he began teaching at the USD Law School, where he has remained. Professor Darby teaches Constitutional Law and Jurisprudence, and has also taught Criminal Law.

He plans to leave for Germany in September, and will be gone a full year.



Professor Darby

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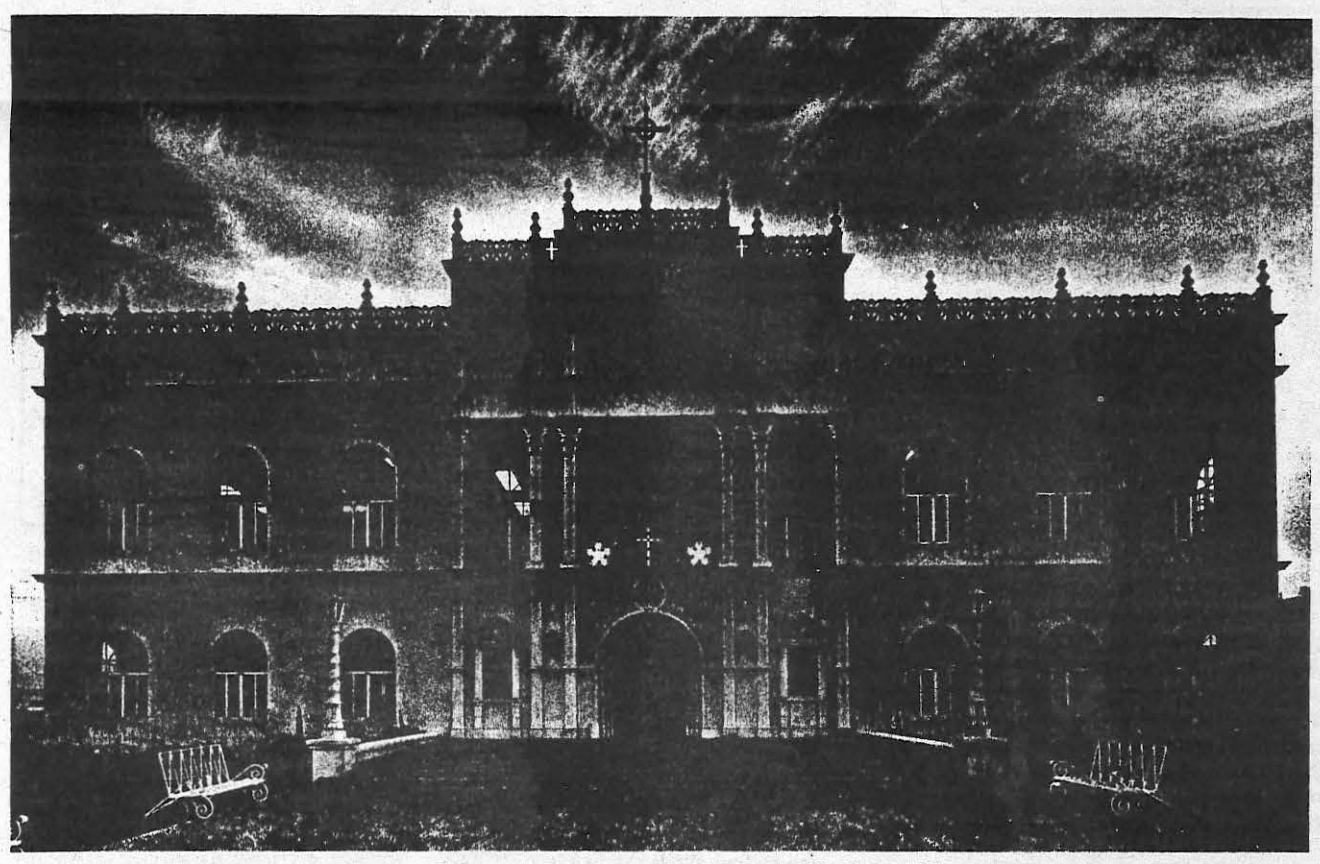
U.S.D GRANTS J D DEGREE



— J D DEGREE —

After final faculty approval, the University of San Diego School of Law has decided to grant to its future graduates the J D degree. The decision came after painstaking research on the latest trends in legal education.

For the graduating class of 1965, this means that for the first time in the school's history, a Juris Doctor degree will be awarded instead of the previous LL B. Also benefitting by the change will be all qualifying alumni, that is all who held a bacculaureate degree before commencing the study of law.

Reasons for the change include a trend in circles of legal education toward recognizing that the three years of study by the present-day law student is in fact post-graduate work. More often than not he is required to have a baccalaureate before acceptance to law school. University of San Diego requirements are that all entering law students hold such a degree.

The J D degree is a concept which has met overwhelming approval by major professional organizations. The American Bar Association, the American Association of Law Schools, and the American Law Student Association have heartily endorsed the granting of such a degree to qualified graduates. It is felt this will do much toward upgrading the legal profession, showing its rightful status along with such sister professions as Medicine and Dentistry, which have for years recognized their graduates' acheivement by awarding a Doctorate.

The University of San Diego Law School engaged in thorough study before deciding to make the change. It is felt that by thus tempering progress with careful decision, the school will have a solid basis of professional support for its adoption of the change. At the same time, this step does place the school in the forefront of a growing number of institutions which are recognizing the need for a new approach in legal education.

It is estimated that in addition to this year's graduating class, well over a hundred worthy alumni will be granted their J D degrees, thus gaining advantages in professional placement and growth.

The College Placement Council Salary Survey discloses some interesting facts pertaining to degrees. This 1964 report indicates that the average salary difference between a bachelors and a masters degree is about $100 a month. It has been felt, in light of such facts, that the granting of merely another bachelors degree to a student already possessing one, and who has undertaken an additional three years of rigorous study, was at best inappropriate. Graduates possessing the new degree can look for far more favorable treatment in the fields of higher education, salary, and military placement. Military reserve personnel can expect more favorable handling of their accredation for promotion points when working toward a genuine post-graduate degree.

COMMON LAW RAMBLE

BY BRIGADIER WILLIAM J. MILLER

BRIGADIER WM. MILLER

During previous rambles along the highways of Legal History we pause at four milestones: (i) birth of the Common Law (ii) rise of Equity to ascendancy. Here, we noted that as is the way of her sex the world over, this gentle lady's notions of what is right (conscience) tempered the harsh exactions of her spouse (the Common Law) and softened his rigours (iii) growth of professional ethics and its gradual and reluctant acceptance by lawyers, and (iv) origin of the law-making power of the Judiciary. This ramble will take us again to (iv), after which we shall glance at a serious problem facing law students, and solving it in a wide-awake manner.

Long before students arrived at More Hall they were aware that traders, missionaries, immigrants, and particularly conquerors, carried with them not only their national recreations (cricket, baseball, bull fighting), but also their ideas of justice. Legal History takes note of the spilling over of the law systems of Babylon, Rome, Britain, France, to name only a few of the powers which, each in its own day, introduced its own system of law in the territories they occupied.

The migration of judicial discretion around the world may be illustrated: if you suggested, for instance, to a Japanese or Israeli lawyer that much of his existing law, including judicial discretion (the law making power of Judges) stems from the barbarous England of the 12th century, he would probably regard you as "off your rocker", unless he had read his legal history. The fact is that even during our own day American and British lawyers stationed, respectively, in those two countries drafted or, to say the least, shaped new laws which were superimposed upon the ancient fabrics. These lawyers were the bridges which joined their own notions of law with those of Japan and Israel, thus extending the warp and woof of legal history. This process of innovation has been observed in thirty or so newly independent nations lately of the British Empire, where judicial discretion is now perhaps the most widely practiced of the law-making power.

In due time legal historians will note that at Yalta in February, 1945, the guardian of free institutions, the U.S.A., spoke in two voices, each sustaining a mutually exclusive system of law. In the outcome one voice induced the people of Japan to abandon much of their ancient feudal law and, by

Professor Seigan Condemns Zoning

by Diane Ward

Professor Bernard Seigan, presently teaching a Land Use Seminar, is the 1972 recipient of the Institute for Humane Studies "Monk's" award given annually for distinguished writing in jurisprudence and political philosophy.

In his book, "Land Use Without Zoning, " published by D. C. Heath and Co., Professor Seigan demonstrates that governmental control over land use through zoning "has been unworkable, inequitable and a serious impediment to the operation of the real estate market and the satisfaction of its consumers."

A specialist in real estate law for over 20 years and a noted authority on U.S. zoning laws, Seigan's research in law and economics at the Universtiy of Chicago Law School has led him to the revolutionary view that zoning is a failure and should be eliminated. While working under a one year fellowship from the University, the former Chicago attorney used Houston, Texas, sixth largest city in the U.S., as his laboratory example. Houston has no zoning laws, utilizing instead land-use covenants, land use limitations and "econoic forces." These restraints as well as land values have successfully proved effective deterrents in keeping commercial and industrial districts from invading areas of single-family homes. On-site investigation of Houston, one of the few remaining unzoned cities in the U.S., has led Seigan to conclude that "the private market, regulated by relatively few ordinances, is better able to serve the community than is the mixture of planning, law and poltics known as zoning.

"Significantly, rents have been shown to be lower in the unzoned cities than they are in comparable cities with traditional zoning. In addition, the market price for home sites in the unzoned areas tends to be higher, further refuting the long-accepted popular theory that zoning is necessary to prevent the rapid destruction of market value occasioned by the invasion of industrial complexes, highrise apartments and gas stations. Another Seigan argument! – "Zoning involves politicans and politicians are subject to all kinds of pressures. This usually works out badly." **Land Use Without Zoning** has received acclaim from such divergent publications as the Chicago Tribune, Santa Ana Register, American Bar Association Journal (November 1972) Professional Builder and the San Francisco Examiner. Conspicuously, but not surprisingly absent, is favorable mention by the City Planners of America.

CASES AND CONTROVERSIES

By Damien Schiff
Editor

Like the wind whistling through the reeds of Lake Miramar, so passes the name of USD Law upon the lips of California's lawyers. Our school has beat out USC for the fourth highest bar passage rate in the state. At a superficial level — that of phonetics — the achievement is inconsequential. Many people I meet, when I tell them that I attend USD Law, mistake the "D" for a "C," and would consider me thereafter a Trojan. Following renewed efforts at accurate pronunciation my listeners become assured of my Torero origins. But this is a small point. Far more important are the questions: What is the relevance of the school's bar passage rate? Should a law school "teach to the bar"? And should there be a bar exam at all? I shall endeavor to answer these tricky and provoking questions in the remainder of this written perambulation.

A bar passage rate for any particular school can mean one of several things. (1) The school's students are especially sharp (or dull-witted, as the case may be) in contradistinction to their geographical peers. (2) The school's faculty does a superior (or inferior) job in preparing students for the bar. (3) The racket commonly known in this country as the private professional test preparation industry is exceptionally good (or bad) at teaching *juris doctores* all the topics they learned (or failed to learn, or were never taught, or those things which they blithely ignored) in school and which appear on the bar. And note, dear lector, that none of these possibilities even peripherally deals with the question, believed by some to be important in itself, of whether law should be taught for its own sake.

We must, then, determine which of the aforementioned reasons best explains USD's surpassing of USC in the bar passage rates. I doubt that USD students have better minds than USC students (but who can quantify the mal-effects of foul Los Angeles air on once perspicacious minds?). Moreover, it seems unlikely that the faculty of USD is so vastly superior to that of USC, that a superabundance of legal acumen should be imparted upon USD students, like a Plotinian emanation, but should fail to affect USC students similarly situated on the Dionysian latter of being. Thus, it seems clear to me that the reason for USD's successful bar passage rate—one better than all but three other California law schools— is the simple truth that USD law professors "teach to the bar."

Ought we to be ashamed of that fact? Is there something crassly utilitarian about a legal education wholly directed toward a practicing rather than a theoretical end? I suppose the answer depends upon one's conception of a modern lawyer: is he a legal technocrat or a learned professional? an ambulance chaser or a defender of liberty? a constitution twister or a constitution preserver? If we assume that the lawyer USD seeks to produce is a learned professional (and I believe that to be a fair assumption), then there ought not to be any perturbation upon the realization that USD law professors teach their students how to do well on the bar exam. After all, the exam itself is meant to test for minimal competence in the practice of law.

One of the unfortunate and lamentable developments in legal education of the last several decades is the teaching of law as if it were merely another division in the modern-day graduate school. Not to disparage the M.A.'s of the world, but it seems painfully plain to me that M.A.'s are not intended to be practitioners of anything; they are to be theorizers. Just the opposite is true of lawyers. They are meant to be practitioners — learned practitioners, perhaps — but the emphasis in their education must always be on the practice, not on the theory. Of course, I exempt from my discussion those chosen few who are selected for ensconcement in the legal academy; it is their August duty to theorize about practice and to harmonize into system the disparate elements of law as lived. I do not envy them. But the law professors' example, as an exception, proves the larger point, namely, legal education is properly a practical education. As bar passage is one step on the way to practice, it is eminently reasonable and defensible to "teach to the bar," if the purpose of a law school is to produce lawyers. Granted, one could also go to law school merely to become an adept legal deipnosophist, but that strikes me as a rather expensive and arduous way of going about it.

It should now be clear that legal education, to be properly "legal education," ought to prepare students for the practice of law, which preparation must include at the very least implicit bar preparation. Indeed, if a law student were to take a course that had absolutely nothing to do with law practice, it would be likely that the course would be taught by a professor beyond his depth. Many theory classes in law school could be better taught by other members of the academy. If the class be "law and economics," let the student take a course in economics and research law on his own. Indeed, if it be "law and X," let X be taught by an expert in X and let the law student handle the law. Thankfully this malady is not present at USD. Here we are taught the bar. Here we become practicing lawyers.

No discussion of the bar exam would be complete without some mention of its possible irrelevance and uselessness. The culture of the JD, of law school and Bar Review, is of very recent vintage. The great English lawyers knew of a "bar" quite different from our own. Lord Coke never took a law school class; Lord Mansfield never troubled over the multistate questions; Sir William Blackstone was happily unconcerned with any Model Rule. And still the legal profession was strong and vigorous. It was the salt of political society. There is a Norman Rockwell painting that depicts a studious young man bent over an oppressive legal tome earnestly making himself a lawyer, with a picture of Lincoln overlooking him. Lincoln had no J.D.; the student had no law professor; but the profession survived.

Now I suppose the easy answer to the position that the bar exam ought to be abolished, is

Please see **CASES AND CONTROVERSIES** *at next page*

News Release

FOR IMMEDIATE RELEASE

Contacts:
George Decker, Director of Publications (619) 260-4097

USD Law Grads Achieve Superior Pass Rate in July 2003 California Bar Exam

January 12, 2004, San Diego-Among first-time takers of the July 2003 California Bar Examination, graduates of the University of San Diego School of Law had one of the highest passing rates of all law schools in California.

USD's passing rate for first-time takers was **83 percent**. The passing rates for the 5,364 first-time applicants who took the exam in July were 63.5 percent overall and 71.5 percent for applicants who attended California law schools approved by the American Bar Association.

Of the 19 public and private ABA-approved law schools in the state, only three—Stanford Law School, University of California at Berkeley (Boalt Hall) School of Law, and the University of California at Los Angeles School of Law—had higher passing rates. The USD School of Law had the highest passing rate of all law schools in the San Diego Metropolitan Area.

"We are obviously ecstatic about these results," says Dean Daniel Rodriguez. "We have evidence from several years of excellent bar passage rates that our law school program prepares our students very well for the rigors of the difficult California bar exam."

CASES AND CONTROVERSIES, *continued from page seven*

that the law is unimaginably more complex now than it was a hundred years ago; that specialization is the key to success; and that the legal market, understood from an economic perspective, is better off with a professional licensing system and an entire industry designed to prepare people for licensing. I do not question the validity of any of these points; I may simply be ruing the untoward development of the legal profession. But even in today's society, a legal profession without a professional licensing system can easily be envisioned. If there were no bar requirement, paralegals and others would provide healthy competition to lawyers in many fields, such as family law, estate planning, and even tax. Consumers would be pleased with the sharp drop in legal fees, for non-lawyers would have no need to pay off nonexistent legal education debts. And the "invisible hand" would wipe out the incompetents. A non-obligatory bar could be offered, based upon the specialization tests now used in California; passage could be used to convince clients of a lawyer's superior qualifications. Success in cases would be the actual test.

The same salutary effect would be produced for law schools. As bar passage would no longer be obligatory, a law degree would no longer be essential to law practice. Persons would be free to decide whether a legal education would in the long run make them better lawyers. To stay in existence, law schools would have to tailor their curriculum (and their tuition) to the demands of the "invisible hand"; the strongest of these academies would survive and prosper. I do not mean to be understood as advocating some sort of legal Darwinism for law schools, but I do take it as a fact of economic theory that rational people with full knowledge will select the best lawyer available for their legal problems. If that person has a bar card and a J.D., so much the better. But if he be just a bloke with a copy of Black's, and the client be satisfied, who are we to remonstrate with a gifted legal amateur?

I realize that I may have traveled far afield from my original adulation of the law school's impressively high bar passage rate. I do not mean to disparage theory. Thinking about law is important. According to the Psalmist, Happy is the man who meditates upon the law of the Lord day and night. Whether it is also true for the man who meditates upon the law of the U.S. Code day and night is quite another matter. I should feel sorry for that man, even if he passed the bar.

ASK MADAM GRAMMAR

Dear Madam Grammar,

The following is a typical exchange among people nowadays: " Good morning, old bean! How are you?" [Answer] "I'm good." Now, I have no doubt about the essential goodness of the person answering, but I am somewhat perplexed by the possible grammatical error his response presents. Would you clarify?

— Lost among linking verbs

Dear Lost among linking verbs,

Your ear has not betrayed you; there is something deeply — even philosophically — wrong about your friend's answer of "I'm good" to the question "How are you?" We can elucidate the error first by defining the words "well" and "good." "Well" is generally used as an adverb, and thus can properly modify, among other things, a verb. "Good," on the other hand, is an adjective, and so can modify only a noun. In the example before us, to decide which word ought to be used in answer to the question "How are you?", we must answer the antecedent but not obvious question of the nature of "I am." In other words, is the particular state of our existence at any given moment in time best described as a thing, or as an act (i.e. verb)? I might well admit that this question goes to the very heart of philosophy; and the various answers given through the ages by the greatest minds have not been of one piece. Suffice it to say that most Greek and German philosophers, if they believed anything to have existed, conceived of existence (or being) as a thing. This group represents many notable thinkers, and is ably exemplified by Descartes's now trite aphorism, "I think, therefore I am," which simply means that an act (thinking) is proof of the existence of a thing (existence itself).

On the other side of this debate stands the towering intellect of the Angelic Doctor. For it was Aquinas who argued originally and brilliantly that existence must not be understood as a thing but as an act. Accordingly, everything that exists is a particularized "to be" act. This paper that you hold is an act that is acting in a "newspaperly" way. The pen with which I write this response is the limited existential act of "to be pen." A human being is the act of "to be" limited by the form of humanity and, in particular, an individual's personality. And pure act is God. Although this view of Aquinas's thought is not universally held, what matters for our purpose is not its proper attribution, but its opposition to the notion of being as a thing.

Now, to address your question, we must decide whether we shall take existence to be a thing or an act. If it is a thing, then it would be appropriate to describe our particular state of being at any moment in time as "good," because the thing "existence," being a noun, would properly be modified by an adjective. If, however, we consider existence to be act, then it would be appropriate to describe our being as "well," for the act of existence, being a verb, would properly be modified by an adverb. By answering, "I am well," we assert that existence is act, not a thing; but when we say "I am good" to mean how we are existing at any particular moment, we assert that existence is a thing, not an act. It would be well to side with Act and Aquinas.

Dear Madam Grammar,

In archaic writing I find commonly used the following: thence, hence and whence; whither, hither and thither. Because I intend to assume certain pedantic affectations for the amusement of my friends and family, I was hoping you might explain the proper use of these adverbs.

— Whither Grammar?

Dear Whither Grammar?,

Alas! we have lost much in the English language to the merciless pruning of the grammar proletariat. I believe these rapscallions got hold of whither and the like just after finishing their obliteration of the subjunctive mood. But it is not too late to revivify these adverbs most unjustly made dormant. Let them sing again from the tongues of English speakers!

With that soaring introduction, allow me to accede to your request. The adverbs whither, thither and hither correspond (in a sense) to our where, there and here. But they differ in an important respect: whereas the second group are the default "directional" adverbs, the first group are what I have felicitously termed the "movement-directional" adverbs. Whenever one uses a verb that implies movement, and wishes to describe the end-point of that movement, whither, thither and hither are appropriate. For example, "Where did I place my fob and chain?" is correct; but "I traveled there to Sussex for a fortnight" is incorrect. It should be "I traveled *thither*, to Sussex, for a fortnight" because the directional adverb is modifying a movement verb, and the adverb is describing the end-point of that movement.

The same holds true with whence, thence and hence, the only difference being that these "movement-directional" adverbs apply to the starting point of the movement. For example, "I went hence directly to Paddington Square" is correct; so is "Thence I caught a post-chaise straight to Windsor." Generally speaking, it is incorrect to have "from" precede hence or thence, although "from whence" is somewhat common if not ungainly.

Dear Madam Grammar,

In scholarly writing I often read the word *however* at the beginning of a sentence. When it is used thus, it often is meant to mean "on the other hand." Is this stylistically and/or grammatically correct?

— Conjunctively confused

Dear Conjunctively confused,

It is a delicate matter to pontificate on things grammatical; it takes a certain *chutzpah* to anoint oneself a language maven, especially where the language in question has no authoritative overseer, guide or caretaker. Such is the case with English. This trepidation at word-carping is accentuated when the question concerns not even putative *rules of grammar*, but only *rules of style*. Nevertheless, I believe your concern is sufficiently important to merit an expatiation.

The word *however* can be used in two different ways: as a conjunction and as an adverb. When used as a conjunction, there is no stylistic objection with its beginning a sentence or clause. For example, "However you manage to do it, all that matters is that you find employment" is a sentence both grammatically and stylistically correct in its use of *however*. When *however* is used as an adverb (to mean "on the other hand"), a fairly well-settled rule of style would preclude its beginning a sentence or clause. For example, "I thought the tenor in *La Bohème* did a good job. However, the soprano failed to capture Mimì's youthful *joie de vivre*." Here *however* ought not to begin the second sentence. A much preferred rendering would be, "The soprano, however, failed to capture Mimì's *joie de vivre*."

P.S. I generally avoid commenting on the style of my letter writers, but I must point out that *Conjunctively confused* ought to avoid the near abomination *and/or*, as in "X and/or Y." The same sentiment can be expressed "X or Y or both" without the ugliness of the forward slash.