



REPORTER TO CEASE PUBLICATION IN CURRENT FORMAT

by Robert C. Fellmeth

This issue of the *California Regulatory Law Reporter* marks the conclusion of fifteen years of its publication. The *Reporter* began as an experiment to open up the proceedings of California state regulatory agencies to greater media and public scrutiny in 1980.

These state agencies were a propitious choice, first suggested as deserving of attention by distinguished attorney, businessman, and philanthropist Sol Price in 1979. The intervening years have justified their selection for examination. These agencies have pervasive impacts on our lives, affecting the quality and fairness of professional services provided by occupations ranging from physicians to attorneys to morticians. They regulate the environment for the benefit of future generations. They safeguard major financial institutions, such as banks, savings and loans, insurance firms, and corporations. And here, in the savings and loan misregulation of the 1980s, we have seen the terrible consequences of failure.

Most regulatory agencies have been delegated vast powers under broadly framed enabling statutes. Few are subject to detailed coverage by the media; in fact, we learned early on that—with the exception of our student interns—almost all of those attending agency meetings and hearings are those with a narrow proprietary stake in the outcome of the agency's decisions. We still recall our students in 1980 and 1981 reporting back to us that many agency board and staff members could not understand what we were doing coming to their meetings and hearings. "Why are you here?" they asked over and over, apparently befuddled as to how to deal with people who are asking nothing from them.

And we have long since learned that, in general, these agencies receive little legislative oversight and substantial (and often unwarranted) judicial deference.

The Center for Public Interest Law has used the regulatory setting to teach over 550 student interns the skills of public interest law. It has proven a fertile setting for that education. Our students have quickly learned about the importance of these entities, and about the imbalance in advocacy before them. And

because agencies are not courts, students are able to engage in direct advocacy under staff supervision prior to licensure as attorneys. Hence, many have participated in clinic advocacy projects, including the proposal of agency rules, legislative advocacy, agency adjudications and court litigation. Many of these special clinic projects have been in defense of the "sunshine statutes"—the California Public Records Act, the Bagley-Keene Open Meeting Act, and the Ralph M. Brown Open Meeting Act. Litigation to enforce these statutes, and legislation enacted during the 1980s which added the current civil remedies for violation of the open meetings laws, have involved student contribution.

Most recently, we have been especially gratified to find Governor Pete Wilson, through his Department of Consumer Affairs, proposing a detailed series of reform proposals similar to those proffered over the past fifteen years in the editorial pages of the *Reporter*. This deregulation agenda for 1996 takes on numerous special interests who benefit from private cartel-like protections from competition. Its advancement represents principled conservatism in its most honorable form. The Governor would subject many to market discipline. He would remove many gratuitous barriers to entry—in a setting where some agencies manage to bar each year 75% or even 90% of those seeking to practice a trade or profession. If implemented, his policies here will enhance societal fluidity and opportunity for upward mobility through work. Other positions his administration is advancing limit excessive private control of the state by trades or industries purportedly regulated in the interest of the general public.

The *California Regulatory Law Reporter* has functioned as the flagship of the Center for Public Interest Law since 1980. During this period, it has recorded the proceedings of over 60 major agencies, published commentaries, and—we have hoped—made agencies more accountable to the broader interests they are intended to serve. However, the resources necessary to publish a detailed regular quarterly on California's agencies, even if confined to the major 20 or 30 with greatest public

impact, are substantial. Nor does the staff of the Center for Public Interest Law feel comfortable publishing a journal which is abbreviated or incomplete in covering what may be important details. In fifteen years, the average issue of the *Reporter* has grown from 60 pages to 220 pages—equivalent to over 1,000 typewritten pages in each issue.

Because of limited budgets and increasing demand for public interest education in the other area of concentration for the Center, the advocacy for children undertaken by the Center's Children's Advocacy Institute, difficult decisions must be made. Given the critical status of children in California, record levels of poverty, the soaring number of child abuse reports, declining public investment in education and the safety net protecting them, and record levels of unwed births, the Center has decided to direct most of its assets toward California's children and into the training of child advocates to assist them.

The *California Regulatory Law Reporter* will continue, but only as an episodic publication focused on specific regulatory issues of general concern. The Center's educational program focusing on regulatory agencies will continue, but without the costly editing burden which the *Reporter* requires in its current comprehensive format. This publication may be restored to the format represented by this and prior issues, should resources become available that purpose.

The Center's student clinic program and associated professional staff advocacy projects will also continue, including litigation, rulemaking, and legislative work. These efforts will concentrate on the procedural safeguards for open and fair regulatory proceedings: the Administrative Procedure Act, the sunshine statutes noted above, and the compliance of agencies with constitutional and antitrust limitations on their activities.

CPIL salutes the many students who have monitored agency activities and written articles for publication in the *Reporter* over the past fifteen years, the numerous professional staff members who contributed their editing skills and other expertise to the publication of the *Reporter* and who have moved on to new challenges (including especially Gene Erbin, Betty Mulroy Mohr, Carl Oshiro, and Jim Wheaton), and the University of San Diego and its School of Law for their support of the journal. CPIL especially thanks Sol and Helen Price for their gift of the Price Chair in Public Interest Law, and for their unwavering support of CPIL for the past fifteen years.