Grad Discusses Law's Dangers; See Page 5

UCLA DOCKET

Law School Happenings On Page 4

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ASSOCIATE DEAN BAUMAN

Bauman Sees New Curriculum

by JIM BIRMINGHAM

Associate Dean John A. Bauman predicts significant changes in the courses available to second and third year law students in the coming decade. Addressing the members of Phi Delta Phi Legal Fraternity at their second speaker's luncheon of the year, on Jan. 15, Bauman stressed the emphasis now being placed on environmental and urban law and the increasing trend to incorporation of clinical programs as indica of new curriculum.

Speaking on the topic of "The Future of UCLA Law School", Bauman noted the general youth of the School's faculty and noted that the newer and youngest members of the faculty are concerned with topics like Air Pollution and Urban Planning. He remarked also on the coincidence of this area of concern with a tendency of teachers "who want to go out and 'rub elbows' with the public." While he endorsed this attitude and speculated that it would strike a responsive chord with many students, Bauman wryly noted that he didn't expect the influence to be contagious among the older faculty members, who he believed would remain loyal to "our old traditional and sacred library, which we all love so well."

Admissions Program

Switching to the admissions program, Bauman related his personal doubts about the feasibility of continued reliance solely on grade point averages and Law School Admission Test scores. His doubts are based on his observation that at the present competitive level of admissions, there is little, if any, significant difference between those students who are admitted and a large number of the declined candidates.

One portion of the admissions program that Bauman sees as a permanent fixture is the minority students admissions program, although he expressed serious concern over the securing of the funds necessary to support the program. Despite his belief that existing sources of these funds may soon dry up, Bauman repeated that the School is committed to the program and it will continue.

Bar Exams

Another prospect facing Law School, according to the speaker, is revision of the State Bar Examination. Bauman reflected some of the concern of faculty and administration when he voiced questions about the amount of zeal which might be expected of senior law students who are advised early in the year that they have passed the bar exam. He offered no personal solution to this situation: but he commented on the suggestions others have made for either a two-year law school curriculum, or else a third year program devoted primarily to supervised clinical programs with course credit.

Finally, Bauman suggested that problems have already arisen with the new grading system and that these problems may result in faculty pressure to modify or revise the system. As an example of the objections being voiced by some faculty members, Bauman reported that one professor had eight "ties" at the "breaking point" between HP (high pass) and P (pass). The instructor was apparently visibly disturbed that one of these papers would receive an HP while the other seven papers (and students) would be lumped with a group that might include those in the lowest ten percent of the class. Under the old system all eight of these papers would have been in the "B" category. Bauman declared,

Faculty Passes Grade Reforms, Abolishes Ranking, Imposes Curve

by CRUGER L. BRIGHT

Grade reform has come to the UCLA School of Law after two years of committee hearings, two separate committee reports and two student referendums. Major features of the new grading system include reduction of the possible grades from approximately 37 to four and imposition of a "mandatory" curve.

The system, as finally submitted by a sub-committee of the Admissions and Standards Committee, and approved by the faculty immediately prior to the fall quarter examinations, calls for grades of High (H), High Pass (HP), Pass (P), and Inadequate (I).

Curve Explained

The "curve" calls for H for the top 10 percent of the class, HP for the next 20 percent, P for the next 60 to 70 percent, with an I grade given to zero to 10 percent. The curve is mandatory in First Year classes, except for the research and writing sections, and is expected to be applied to second and third year classes of over 40 students unless very persuasive considerations require variance by the instructor. The curve will not apply in seminars.

Despite the terminology of "Inadequate" and the fact the report accepted by the faculty states that the grade indicates a level of student performance so inadequate that "were it characteristic of the student's law school career, it would not justify his being permitted to serve the public in a professional legal capacity," the grade will normally carry course credit. The notation of "no credit" can be made by an instructor who receives what he considers an "utterly worthless" exam.

Reports Required

While the instructor is free to grant P grades to a full 70 percent of his class, thus having no I grades, he still must report to the Dean's office the examination numbers of those students who are in the bottom 10 percent of his section. The purpose of this report is to aid the Dean's office in advising students of their need for counseling or guidance. The designation of "bottom ten percent" will not constitute an official grade, nor will it appear on the student's record. Further, the report is only required in those classes subject to the curve.

The status of students who receive grades of I in either one-half or more of the courses, or one-half or more of their course units for an applicable grading period will be reviewed by the Admissions and Standards Committee. Four such "grading periods" have been established: 1) the first three quarters; 2) the second three quarters; 3) the third set of three quarters; and 4) the ninth quarter alone.

Class Rankings

Another aspect of the reform is the discontinuation of the system of class rankings. Outsiders, such as prospective employers, will be able to receive only a transcript of grades, without any computation of average (GPA) or standing in class.

A faculty committee is still wrestling with the question of

Continued on Page 4

Law Review Selection Study Set

A special law school comittee has been formed to review selection procedure to the UCLA Law Review.

Such a review was necessitated by the new grading reform and the absence of any class standing. The committee is comprised of SBA President Myron Anderson, Professors Barbara Rintala and Mike Tigar and Law Review members Dennis Brown and Susan Reppy.

The committee intends to review selection procedures which range from the purely voluntary procedure used by Stanford Law School to the competitive programs used by Harvard, Yale and Michigan Law Schools.

The Law Review this past year departed from past practices. Selection to the Review in that instance, allowed transfer students and the lower 15% of the top 25% of the first year class to compete for positions on the Review. The top 10% of last year's class was, as usual, automatically invited to join.

This committee intends to hold publicized open meetings in the immediate future and all students are urged to attend and express their views.

Judge Pacht Claims Reform Possible From Inside System

by JIM BIRMINGHAM

Superior Court Judge Jerry Pacht told a standing-room-only Legal Forum audience Thursday that he still maintains a "boy scout optimism" about the possibility of attaining youth's goal of social justice within the framework of the "Establishment" and through the democratic process.

Several students questioned the basis of this optimism in the light of Pacht's own recitals of the faults of "the System" and his expressed belief that "the most dangerous man in American public life today is the Attorney General." Pacht's reply was that the trend of bright young law school graduates to refuse positions with prestige firms in favor of openings with such organizations as Neighborhood Legal Services or Public Defender's offices was becoming an increasingly effective counter-balance to the "oppressive and repressive forces at work in our society."

Youth and Law

Speaking on the theme of "Youth and the Law," Pacht listed such institutions as the anonymity of juvenile offenders, and the separate facilities provided by the juvenile court, juvenile detention facilities, juvenile probation system, and the youth authority as means by which the Establishment tried to aid juveniles. He was quick to admit, however, that these institutions were not unmixed blessings, citing the problems involved in the Gault decision as an example.

The controversial jurist admitted that his list of negative factors in the Youth v. Establishment relationship was considerably more extensive. Among the irritations faced by Youth he listed locker searches, dress and grooming codes, curfew laws, liquor laws, voting rights, nitchhiking laws, drug laws, selective service laws and Vietnam.

Reservations Voiced

While being generally sympathetic to his idea of young people's views on these questions, Pacht was not reluctant to express contrary positions in several areas. He indicated, for instance, that in many ways it was essential for schools to enforce the concept of "in loco parentis". And while he favored reducing the status of possession of marijuana from a felony to a misdeameanor, he indicated that any drive for legalization of pot was premature and unlikely to be accepted by the general public in the forseeable future.

When it came to problems between the law and adults, Pacht suggested that two major problems are the confusion of crime with "sin" and the uneven enforcement of laws and sentencing procedures.

Sex and Censorship

Emphasizing that he was talking about adults the judge commented that one of the major areas in which the law has confused crime and sin is in the attempt to regulate sexual conduct and to control freedom of speech and press through censorship restrictions.

Discussing variations in sentences and law enforcement, Pacht noted the refusal of the grand jury to indict a policeman who killed an innocent bystander in a narcotics raid even though the officer was clearly under the influence of alcohol at the time he accidently fired the fatal shot. He contrasted this leniency with the severity of officials who were willing to accuse the San Fernando Valley College demonstrators not only of misdeameanors, but also of conspiracy to commit misdeameanors. He further noted that felony charges of kidnapping were brought even though no real violence was involved and nobody was seriously hurt.

What Sentences?

While sentences have not yet been announced in the Valley

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One Student's Opinion

BLACK ORGANIZATIONS

by C. Monroe Young III
UCLA Law 1970

The doctring of "separate but equal" set forth in **Plessy v. Ferguson** has been held in **Brown v. Board of Education** to have no place in the field of public education. In spite of **Brown's** proscription black students in white colleges and universities throughout the nation are demanding autonomous black studies programs and segregated dormitories. Prefatory to implementing these programs blacks have organized black student associations on the undergraduate, graduate, and professional school level. The constitutions of some of these organizations expressly exclude whites; where these constitutions are silent on membership qualifications the blacks have efficiently spread word that whites cannot be members. It is submitted that the separatist demands of black students attending "white" universities are in derogation of **Brown** and therefore incompatible with the national goal of desegregation.

Before any analysis of constitutional doctrine is attempted several general notions should be recognized. First, college and university administrators are aware of both the national goal of desegragation and its antithesis, black separtism. Their recognition of these conflicting outlooks has not resulted in strict compliance with the national goal of desegregation. Instead, school officials have been persuaded by a policy which finds segregated education less damaging when enforced by the previous victims than when imposed by the dominant group. The **New Republic** comments:

> The Administration has decided what to do about the yen of black students in "white" universities and colleges to segregate themselves. The decision is to let them do it, provided they and the institutional authorities concerned don't embarass the federal government by announcing that they are doing it "because of race."
>
> This is the essence of the ruling announced the other day in the key case of Antioch College and its all-black Afro-American Studies Institute. Two investigators from HEW's Office for Civil Rights found that no white students had applied for black studies: the director of the Institute had said that the courses were relevant only for blacks, and prospective black freshmen had been told that they would be housed with other Institute enrollees if they wished. HEW required Antioch's President James Dixon to promise that all explicit indications that the black courses for blacks only will be avoided in the future. The Civil Rights Act of 1964 forbids federal assistance in any form to schools that impose or permit deliberate segregation by race.

Second, state and federal officials justify yielding to black demands on the ground that blacks might stengthen themselves by segregation of a limited kind. Blacks also argue that segregated dormitories and organizations provide them with a refuge in which they can enjoy the culture they know free from the emotional and psychological tensions which confront them in the white dominated classroom. Any recognition of these arguments results in making concessions to blacks in direct opposition to constitutional principles.

Third, black organizations are not **per se** in direct conflict with the national policy of desegregation. As W. Arthur Lewis writes on black togetherness in the **New York Times Magazine**:

> . . . But the struggle for community power in the neighborhood is not an alternative to the struggle for a better share of the integrated world outside the neighborhood in which most of our black people must earn a living. The way to a better share of this integrated economy is through the integrated colleges; but they can help us only if we take from them the same things that they give to our white companions.
>
> If we enter them merely to segregate ourselves in blackness we shall lose the opportunity of our lives. Render homage unto segregated community power in the neighborhoods where it belongs, but do not let it mess up our chance of capturing our share of the economic world outside the neighborhood where segregation weakens our power to compete.

The constitutionality of black student organizations depends primarily upon how **Brown** is construed. The United States Supreme Court in **Brown** described segregated schools as inherently unequal. From this proposition the court concluded that racial discrimination in public schools is unconstitutional - - the doctrine of "separate but equal" depriving blacks of the equal protection of the laws guaranteed by the Fourteenth Amendment.

In supporting its conclusion, the Court went further than merely comparing the tangible factors in the Negro and white schools. The court looked instead to the effects of segregation on public education. By effects of segregation the court meant the psychological or emotional harm suffered by Negroes as a consequence of segregation. Sociological data was accepted by the court as evidence of this harm.

Brown then becomes authority for the position that the constitution guarantees the Negro the right to an equal education. The decision also establishes the importance of education today:

> Today, education is perhaps the most important function of state and local government . . . It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

It is in this context that the question whether under **Brown** black student organizations on "white" campuses are unconstitutional comes into focus. It is not within the scope of this article to determine the constitutionality of black student organizations in solely black schools or in schools where blacks constitute a majority of the students.

Black student organizations arise by the voluntary agreement of consenting blacks or from the urging of institutional officials. In most cases these organizations are the outgrowth of self-imposed segregation by blacks.

> In citing a Kansas case, the **Brown** court wrote: Segregation of white and colored children in public school has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of the child to learn.

A reading of this passage requires the conclusion that segregation by whomever imposed has a detrimental effect upon blacks. The impact of segregation is just greater when it has the sanction of the law. Dr. Kenneth B. Clark, a distinguished black educator, whose psychological evidence was influential in **Brown** has succinctly warned "there is absolutely no evidence that segregated education is any less damaging when demanded or enforced by the previous victims than when imposed by the dominant group."

The conclusion that necessarily follows from the foregoing is that black student organizations, even though demanded by blacks, have a detrimental effect on Negro students and therefore deprive blacks of the right to an equal education in violation of the constitution. An argument may be made that the constitutional dimensions of equal education do not extend to a voluntary association of black students on "white" campuses. Two cases decided prior to **Brown** seem to merit a conclusion that black student organizations are not consistent with the concept of equal education. In **McLaurin** a Negro was in attendance at an otherwise white state university. The university imposed racial restrictions on the student which required him to sit at a special place in classrooms, the cafeteria and the library. The court struck down the restrictions because they were found to limit his ability to interact with his fellow white students. The court said "such restrictions inhibit his ability to study, to engage in discussion with other students and in general to learn his profession."

Likewise, black organizations inhibit the ability of black students to interact with white students, faculty, and administration. For example, organized blacks become skilled in the operation of a bureaucratic structure. Communication channels are established between the black student organization and the institutional officials. Policy affecting black students is initiated in the black organization and acted upon by appropriate faculty and administrative personnel. In due course the black leadership within the organization alienates itself from the rank and file members. While all of this is taking place, unorganized blacks are often forgotten in the proliferation of proposals and resolutions initiated by and acted upon by the black student organization and the faculty-administrative complex. Furthermore, white students are alienated from black problems because an important purpose of the black organization is to keep white students out of black affairs.

McLaurin seems to require complete integration once the Negro student has been admitted to the previously all white school:

> To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

Reading **McLaurin** in conjunction with **Brown** seems to permit racial classifications where they are corrective. Thus, corrective racial classifications are not invidious. Judge Skelley Wright has aptly addressed himself to the Color-blind/color-conscious constitutional dilemma. In fact, he resolves the dilemma:

> What can the law do to help remove the stain of racial injustice from the face of America? First, we can disabuse people's minds of the idea that Mr. Justice Harlan I's felicitous phrase the constitution is color blind means that the law prohibits affirmative governmental assistance to the Negro as such. But for the Negro history of slavery, black codes and segregation, to say nothing of the current discrimination in education, employment and housing, perhaps that integration might have some validity. Given this history, as the thirteenth, fourteenth, and fifteenth amendments to the constitution indicate, Negroes are in a class by themselves, requiring special affirmative treatment under the equal protection clause. Of course the constitution is color-blind when invidious discrimination is based on race. But the equal protection clause is color conscious when a particular class, because of prior invidious discrimination, has special needs.

In **Sweatt v. Painter**, the court in deciding that the Negro petitioner could not be denied admission to the white law school wrote:

> . . . What is more important, the University of Texas Law School possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, tradition, and prestige. It is difficult to believe that one who had a free choice between these schools would consider the question close.
>
> Moreover, although the law is a highly learned profession, we are well aware that it is an intensely practical one. The law school, the proving ground for legal training and practice, cannot be effective in isolation from individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned.

Both **Sweatt** and **McLaurin** see the effect of racial isolation as a crucial factor in the decision even where the facilities have been up to par.

An argument that may be advanced in support of Black Student Organizations on white campuses is that the first amendment freedom of assembly, or association as it is sometimes called, permits the formation of exclusively black student organizations. This contention may be rejected on several theories. In the first place the freedom of association is not an absolute right. Freedom of association does not comprehend the right to assemble for any purpose at any time. Government action suppressing association, however, can be justified upon a showing of some overriding valid interest of the state. What this means is that the interest in free association is less fundamental than the right to an equal education.

In **NAACP v. Button** the Supreme Court affirmed this position:

> The decisions of this court have consistently held that only a compelling state interest in the regulation of a subject within the state's constitutional power to regulate can justify limiting first amendment freedoms.

Brown elevates the right to an equal education to the status of a compelling state interest. This is not to say **Brown** has elevated the right to an equal education to the status of a fundamental right. The right to an equal education created in **Brown** is a mere qualified right which inures only to those who either are compelled to attend secondary school by the state or those who may voluntarily choose to attend colleges and universities within the state. It can be concluded that **Brown** intended by declaring that segregation is inherently unequal to abridge the freedom of association.

On the other side of the coin whites have been restricted in exercising the freedom of association. A student note cogently summarizes instances where the Supreme Court has stricken down schemes used by whites to circumvent associating with blacks:

> Other devices were also employed to maintain segregation. Transfer programs in which white students could transfer out of their district to schools were whites were in a majority were held unconstitutional in **Goss v. Board of Education**. Prince Edward County, Virginia, had closed its public schools and provid-

(Continued on page 8)

Law Student Reflects on Moot Court Experience

by **KENT VALLETE**

I was really pissed off about it when I was a first year student. Nobody tells **me** what to do. And who the hell wants to waste his time writing a lousy moot court brief. I wanted to blow up the moot court office and murder all the egotistical bastards who go around wearing those damn black robes. Maybe it was their attitude, maybe their faces, anyway I certainly didn't come to law school to be told I HAD to do something.

But I did it - - grudgingly. Write the brief, I mean. They said I wouldn't graduate if I didn't. (I wasn't so sure I would anyway). It all seemed ridiculous, irrelevant, asinine. It didn't seem to apply to anything important I wanted to do. People were fighting in the streets, not in the bizarre sanctity of the courtroom. Anyway, I had fun at the hearing. I guess I always liked to hear myself talk. Besides, I showed them I could play their game as well as they could.

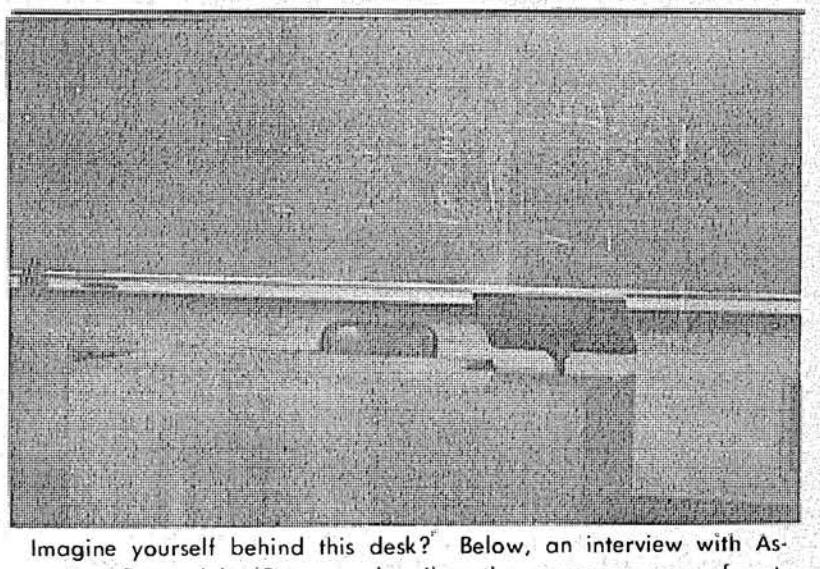
Real Help

I think it was this year, maybe even this summer, when a lot of things started happening in courtrooms, like Chicago, that I realized I had to be good if I was going to be a lawyer. I mean I wanted to write well, to speak well, and to be able to clarify and simplify those complicated fact situations out of which legal trouble develops. I guess now, although I hate to admit it, the moot court thing really helped me. I didn't learn anything practical in any of my classes. In fact, access to the library was the only practical tool I got from the first year, and that came about from teaching myself about the library when I did their problem. Now I do my own problems and knowing the library helps. Being able to write is really important too. I didn't realize how bad my brief writing was until I started reading my own stuff in retrospect. The school says you've got to write the brief. They don't say you can't do a shitty job. I think just doing it is instructive. I know my ability to research and write only improves through practice, and I think that's generally true for all of us. If you want to play their game to change things (and the revolution hasn't occurred yet), you've got to be better at it than they are. Oral advocacy is one thing that takes a lot of practice, and believe it or not, this moot court thing may be your only chance in law school to speak in a courtroom.

I hear the moot court people are a lot looser than they used to be. They're not so uptight about ridiculous trivia. I think they are there to learn too, and can help you. Some of my friends got into the program. And they certainly won't hassle you about anything. I think they'd be more than willing to share anything they know about research, writing, and advocacy with you. On an individual basis if you want it.

Hearings Scheduled

You can have a lot of fun with the whole thing if you don't fight it too much. I know its still mandatory but so are a lot of other things in this life. They'll put our lists in a few weeks about who argues what problem. Your cases will be distributed on March 13th and the briefs will be due on April 24th. Hearings will take place between May 4th and May 15th. You can let them know what you think of the whole program. I think that they would be delighted if you could give concise, analytical criticism. But don't dismiss it too easily as being unimportant. You do need some tools.



Imagine yourself behind this desk? Below, an interview with Associate Dean John Bauman describes the common ways of getting behind it.

Want to Teach Law? Here's How to do it

by **PAUL BELL**

After being exposed to the brilliance of the UCLA faculty for a few months, many students begin to think that teaching law to others might be a good way to spend their careers. If offers relative freedom from the demands of a big firm or public agency, including freedom in choice of dress, as well as constant contact with the inquiring minds of students being exposed to the writings of the J.'s for the first time.

But few students seem to know just how professors are chosen, and though they know that qualifications must be "high", they are unsure about exactly what that means in the context of seeking a job. According to Associate Dean John Bauman, professors at almost all major schools are hired by being recommended by someone on that faculty — usually the job-seeker writes a letter to someone he knows who will mention him, indicating his interest in teaching here. Although registers of people seeking such jobs exist, they are practically never used to actually pick a new faculty member.

When asked about the probable impact of the grade reforms that UCLA and other law schools are instituting on determining the qualifications of someone, Dean Bauman answered that outstanding students will still be identifiable. He feels that no school will go to an absolute pass-fail system that would lump everyone together, that some graduations will remain. While it would no longer be possible to be sure who ranked number one in a class, obviously someone who received all H's and HP's would have an equivalent standing.

And, understandably, law school grades become less important with time, and the achievements in practice, clerkships, or teaching at other schools become determining factors. Traditionally, in fact, the big names in law teaching started at small schools and worked in many places around the country, gradually developing a reputation that gained them appointments to the faculties of name schools. Recently, more people have been hired directly out of school - - - these are the people whose grades must be particularly high in the stratosphere.

The conventional roads to earning the right to insult unprepared students then, are practice and teaching in small schools. Somewhat surprisingly, Dean Bauman said that it is very rare for a writing instructor for the legal research classes to become a faculty member - - they are usually people who are not sure what they want to do, and use the year they teach writing to look around. Similarly, teaching business law in a school of business administration is an entirely separate career - - although many of these teachers have good scholarly records, they never join law school faculties and seldom even have social contact with law school professors.

UCLA STUDENTS AID SOUTH SEA ISLAND LAW REFORMS

by MARVIN ISAACSON

One of the most frequent criticisms of law school curriculum concerns the gap between the classroom and the courtroom. While we may be receiving the finest academic training few of us will ever see a trial, much less handle cases in court, before we pass the bar. This void in our education however is being remedied with the continual expansion of clinical programs. For those students who agree that it is never too soon to start gaining valuable trial and research experience the Micronesia-Samoan Legal Studies Group has recently been formed under the supervision of Professors Monroe Price and Kenneth York. Any and all students are welcome to join, the only qualification being attendance at the weekly meetings on Thursdays at 2 in the Group's office next to the Alaskan Law Review (for those who are interested but cannot attend at that hour contact either Prof. Price or Prof. York).

As of this writing one student, Charles Morgan, is already in Samoa working with the Attorney General. After only two weeks he is prosecuting his first felony case entirely by himself. His other duties have included drafting suggested reforms in the territory's criminal and immigration codes as well as writing up executive proclamations for the Governor. Both Morgan and the Attorney General are excited about the program, and the prospects look good for other students to travel not only to Samoa but Micronesia, the Virgin Islands, and Puerto Rico as well.

Aside from the travel aspects the program offers students the opportunity to research problems related to trust territory law, eventually to be published either in our own Trust Territory Law Review or in other scholarly journals throughout the world. In the fall, Michael Rappaport, a former Peace Corps lawyer in Micronesia, will be joining the Law School faculty and adding his expertise to the Program, and with his help along with the help of students we hope to make UCLA the center for the rapidly expanding field of Trust Territory Law. The Program is open to all students (we are especially interested in first year who will be able to grow with the program) whether or not they are interested in travel.

Fashions, Money, on Wives Agenda

Happy New Year! Law wives started the New Year off with a bake sale and a general meeting starring Dr. Pogrund, whose specialty is Environmental Physiology.

Next month UCLA Law Wives will host a Tri School Brunch. This brunch is held annually to honor the graduating girls, host a speaker, and give the girls from USC. Loyola, and UCLA a chance to get acquainted. The brunch will be held February 8, at the Sunset Recreation Center.

One of the major events of the year is the fashion show. This year Charlestons "Preview Shop" of Culver City will provide the fashions and the shoes. The luncheon will be held at the Ambassador Hotel, with the theme being "Scene '70".

Also this year Law Wives is again giving scholarships of $50 to qualified husbands of Law Wives. These scholarships are given on basis of need rather than grades, so everyone can apply. The applications are available now at Assistant Dean Kahn's office. The deadline for applying is February 20 . . . So Hurry!

The next general meeting is February 4, at 7:30. The next Professor's Course is February 11 with Professor Rabinowitz speaking to us on "Tax and Us."

Case of the Month

"Audience Participation"

1 Cal. App. 3rd 68

(in advance sheets)

THE UCLA DOCKET

The Student Newspaper of the UCLA Law School

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Parting Shots

Exam Procedure Change Draws Ire of New Alum

By John Lovell
UCLA Law '69

Those of you who took final exams last December will recall that the procedures were somewhat different from any previous exams given at the Law School.

Students were prohibited from taking their exams in any room other than the exam room or the designated typing rooms. In addition, students were not allowed to smoke in the exam rooms. Any student who failed to comply with these procedures was deemed guilty of violating the Honor Code. Formerly, students were permitted to take their exams any place they desired.

New Procedures

These new procedures were adopted by the Faculty shortly before fall quarter final exams. The rationale given by the Student-Faculty Committee in recommending these changes was that all students should be subjected to the same hardships of typing their exams amid the clatter of keys, or writing their exams in the presence of their classmates.

Without examining the sincerity of this rationale, it is still evident that it must be rejected. An exam is supposed to be a test of knowledge. The purpose of examination procedures is to structure the exam-taking environment so that matters irrelevant to a knowledge of the law do not hinder the student in taking his exam. By accepting the rationale of the Student-Faculty Committee, the Faculty of this law school has evidently decided that an exam is not to be an indication of a student's knowledge at all, but rather some medieval trial by ordeal. The basic anti-intellectualism of the faculty position is so abhorrent that it must be rejected on its face.

Faculty Rationale

Even if there were something to the faculty rationale, however, their action must still be condemned as an unjustifiable interference with the Honor Code. The Honor Code is a student document, which can only be altered by a vote of the students. By attempting to enumerate violations additional to those presently in the Honor Code, the faculty is interfering with an area of student self determination.

The blame for this whole sorry episode does not rest entirely with the faculty, however. The students who sit on the Student Faculty Committee and the members of the Student Bar Association were negligent in not resisting these proposals from their inception. If effective student representation is to be a reality, it is imperative that student leadership have these ill-conceived exam procedures abolished.

We Get Letters. . .

A Matter of Judgement

Dear Editor:

I am a UCLA graduate in Liberal Arts, Class of '31, and have practiced law in the State of California since January of 1936. I am also one of the founding members of the UCLA Law Alumni Association. This was founded by a group of lawyers who graudated from UCLA prior to the time UCLA had established a law school. I am also a member of the Dean's Counsel.

In reading the October 20, 1969, issue of the Docket, I was appalled, shocked and embarrassed by the language used in an article written by Allen Fleishman (SBA Vice President no less). In his article, Mr. Fleishman proceeds to give serious treatment to the Angela Davis case and then, in the second paragraph of the article, uses the following language:

"Perhaps it is time, in light of Berkeley (see S.B.A.'s demanding letter to Ronald Reagan June, '69) and in light of Angela Davis, to pose a modest querry: What the fuck do we think we are going to accomplish with resolutions?!"

I fail to see how a young man who is going to practice law and become an officer of the court is going to adjust to this when he doesn't even possess the necessary quality of being able to discern the use of improper language. This language to me in the type of publication such as the Docket denotes ignorance of proper language. Perhaps Mr. Fleishman should be told that it takes more than brilliance, if he is that, which I doubt, to make a lawyer. It takes many things, among which are the use of proper language and taste. This bothers me even more because Mr. Fleishman is evidently a Vice President of the Student Bar Association and his improper language is compounded by your Managing Board by the obvious improper editing of this article.

Yours very truly,
Maurice Mac Goodstein

Mr. Goodstein:

We appreciate your fine letter and obvious concern for our law school and the legal profession and further we hope that we did not appear frivolous and irresponsible to you and our other readers by printing Mr. Fleishman's article. We strive very hard to be responsible not only to the DOCKET but also to all of our readers.

It was because of our deep sense of responsibility to the DOCKET and our readers that we published Mr. Fleishman's article just as he submitted it to us. As journalists, we know very well that the thin line separating editing and censorship is one of judgment and we are perfectly willing to admit that we may sometimes err in this judgment but we will never admit to being irresponsible and frivilous in the making of that judgment. We believed that Mr. Fleishman's article was lucid and uniquely his own thoughts and we felt it worthy of publishing as he submitted it to us.

We apologize to you and to any other reader offended by Mr. Fleishman's choice of words but we state at this moment, without equivocation, that we will never censor the thoughts of our fellow students under the guise of editing. We believe that our fellow students have a right to have their thoughts appear in their student newspaper, unchanged, in any form or manner.

We trust that henceforth all our readers will read "One Student's View" articles as the bylined students own personal thoughts and react accordingly. In a society that looks to our profession for the protection of free expression we feel constrained not to substitute synonyms for words used by others simple because they irritate our personal sensibilities.

The Managing Board

Generous Gift to Library Aids Acquisition Efforts

A gift of $2,500 was recently received by the Law Library to assist in its efforts to improve the UCLA collection of entertainment and copyright law, according to Frederick Smith, law librarian.

Walter Lorimer, president of the Los Angeles Copyright Society, made the donation in behalf of his organization. Smith stated that the funds will be used to improve his library's present collection of materials in the area of copyright and entertainment law, which is already one of the largest in the country.

The generous gift will allow the library to purchase relatively costly and seldom encountered materials to supplement present materials. Because of the scarcity of the materials sought, Smith went on to say, the acquisition program is expected to last many months and will extend around the world.

The Librarian also noted that Mayme J. Clayton, special library services assistant, has been working very closely with the UCLA Afro-American Studies Department in its establishment of a Afro-American Library.

The new library includes a collection of the basic works relating to black studies and was made possible through a special $5,000 grant from Robert Vospers, the University Librarian.

Mrs. Clayton's special assistance, Smith concluded, was invaluable to the new library's program which is now fully operational. The circulating library, which is open to all university students, is located in Campbell Hall and is open from 10 a.m. until 10 p.m.

Grade Reform

(Continued from page 1)

whether and, if so, how to retroactively apply the new grading system to grades received under the old system by second and third year students. Also still undecided is the question of the minimum qualifications for graduation under the new system. Discussion reportedly centers around proposals that students be required to maintain at least one-half or two-thirds of their grades at the P level or higher.

The effects of the system on the selection procedures for Law Review and the Order of the Coif have not yet been ascertained.

LAW SCHOOL HAPPENINGS

Givner to Clerk For California Chief Justice

Third year law student Ronald Givner has been selected to clerk for the new Chief Justice of the California Supreme Court. Givner was to have clerked for Chief Justice Roger Traynor but Traynor's retirement from the bench made that impossible. Givner, a member of the Law Review, continues the tradition of UCLA graduates being tabbed by the United States and California Supreme Courts for clerkships. Thomas Armitage, a 1969 alumnus is presently clerking for U.S. Supreme Court Justice William O. Douglas.

Law School Awarded Grant

The Law School has been awarded a grant of $86,000 from the Council of Legal Education for Professional Responsibility. The grant will extend over a four-year period and its purpose is to help support the Law School with its experimental clinical legal education programs.

Bar Journal Seeks Student Articles

I.H. Prinzmental, editor of the Journal of the Beverly Hills Bar Association, is presently seeking student written articles for his publication.

Such articles should be oriented toward the practicing bar. The Journal is published monthly and it affords UCLA Law Students an opportunity to have their work appear in a professional journal prior to graduation.

Students desiring additional information should contact Prinzmental at 1800 Avenue of the Stars in Century City.

Student Directory Completed

The annual Law School student telephone directory was recently complted and submitted to the printers.

This year's book will include the names, addresses and phone numbers of all UCLA students and faculty members as well as staff office phone numbers. The directory should be available for distribution within the coming week and will be, as usual, distributed free of charge to the Law School community.

Law Student Heads Chicano Group

Second year law student Cornelio Hernandez is presently serving as statewide president of the newly formed California Chicano Law Students Association. Hernandez, a graduate of San Francisco State College, was elected by representatives from all of the accredited law schools in the state. He is the group's first president.

ABA Student Journal Seeks Articles

Pretty Susan D. Tanzman, ninth circuit governor of the American Bar Association's Students Division, says that her organization's Student Lawyer Journal desperately wants legal articles written by UCLA Law Students for publication.

Miss Tanzman said that such articles will insure the Journal's relevance to law students throughout the country. Any student desiring to submit an article should contact Miss Tansman at Loyola Law School or William Hennke, 1155 E. 60th Street, Chicago, Ill., 60637.

Era Ends

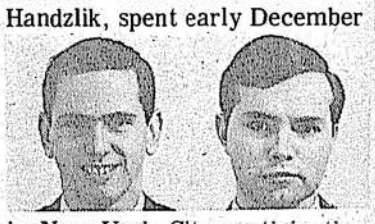
One of the advantages of attending the UCLA Law School is that there has usually been at least one movie star in the student body for the rest of the student body to tell their relatives and friends about. John Kerr, for the past three years, has been that one. In addition to his movie work, John was also a very capable law student here at UCLA. But, in December, Kerr graduated and there is presently no movie star of his stature to replace him. John, who has starred in numerous television productions and movie classics Tea and Sympathy and South Pacific also holds an AB from Harvard University and an MBA from the University of California. So, with John studying for the March Bar Examination, the Law School is fresh out of movie stars but at least we still have former professional football standouts Andy Von Sonn and Bobby Lee Smith.

Yearbook Near Completion

"Law 70," the Law School Yearbook, is rapidly reaching completion and is secheduled for the earliest release in the Law Schools' history. This year's book will be 64 pages, as opposed to its 48 pages the past two years, and will for the first time in history feature full 4-process color pages. According to the book's editor, Wallace Walker, the book will be released in late April or early May. Assisting Walker with this year's book are Pearlie Windsor, Ethel Mixon and Sue Neeson.

Moot Court Team

The Law School's Moot Court team, comprised of third year students Saul Reiss and Jan Handzlik, spent early December



in New York City participating in the National Moot Court Competition. This marked the first time in history that a local team had reached the finals.

Thoughts From An "Over Thirty" Grad

By Edward C. Kupers, M.D., J.D.
UCLA Law '65

We live in a country which has made liberty its theme song, freedom its music, and equality its boast. A nation of immigrants who came here looking for a place to enjoy these very rights now finds itself in a position in which it is accused of denying this enjoyment to sectors of its people. It is a bitter pill to realize that widespread poverty, severe hunger and inferior opportunities for education and employment exist and persist among us who are comfortable and affluent. It is even more dismaying and frightening that the oppression, suppression and neglect responsible for these conditions are extant because it profits certain segments of our people for them to be so.

. . . Huge masses of humanity have mobilized because of this condition. The trends are apparent all over the world. People console themselves with statements such as, "It's only a minority" or "the trouble is all caused by a few." But all revolutions were started by a few. When one speaks of the Movement or of the Black Movement or of the Chicano Movement, these are greater and later than we think.

It is true that movements have occurred time and time again through all of history wherever human misery was more than it should have been. But there is one great difference today. The revolts of the past led more to a replacement of the privileged classes than to benefits for the underprivileged. There has always been in previous years an impossible problem of generalizing abundance. Now, with the advent of increasing facilities for education, widespread socialism, and burgeoning technological and thermonuclear advances, our trained and idealistic youth generation as well as our developing needy minorities can see ahead of them the possibility of a degree of self respect and uniform plenty worth fighting for.

Full Enterprise Roots

Unfortunately, the only way the Movements know to reach these goals is to shake the tree loose of its fruit. This tree does not want to budge, for it is firmly rooted in free enterprise and traditional values. But generations of disappointment and need, abounding youthful ideals, and genuine concern for the world, will not be put off. Still inexperienced, still composed of separately struggling minorities, still discouraged and belligerant as a result of failures and grievances, the overall Movement is learning how to fight and, what is more, its more solid elements are learning the benefits of keeping cool. The warlike natures and activities that flourish today are the result of many wasted years of frustrated peaceful efforts. They are not the real intent of the ultimate people who will follow through. We must constantly bear in mind, however, that intent alone is seldom controlling. There is danger lurking in every corner of unresponsive or unfeeling behavior on our part.

All of these movements, are faced with a tremendous risk of failure. But let the government and the majority not be too smug. If there should be a failure it will descend on all people. Everyone must recognize the basic fact that the regrettable incidents we see happening in our schools and courts and on our streets are not merely demonstration, violence or criminal proceeding. Each is an episode in that great war which commenced when man first stepped on man and will never really cease until human liberty and equality has been secured for all people for all time. This is the true reason for the divergent politics in our young and in our minorities, for most people do not at first possess a consistent political ideology. One develops convictions from what one learns and needs. One adopts a political stance when he has decided it constitutes the best road available on which to reach his goals. It therefore serves no purpose to accuse Black Panthers of being communists or students of being Trotskyites.

The foregoing is well known to the better elements among our judges and prosecutors. Being human, they do not possess the perfection that would enable them to divest themselves entirely of inbred prejudices. Being honest, they attempt to compensate for this deficiency. As a consequence, they try the offense and the person who committed it, not the politics, race, origin or creed of the defendant. But there are others in our judicatures that are not so fine, how many I tremble to say. We of the law must be concerned with this and with what happens in our courts. We like to feel that most police are not felonious, most judges and prosecutors are not unprincipled and most government executives are not as bad as they have been painted. But we do know that there is presently an unusual plethora of conspiracy trials in our courts and that an increasing clamor points a finger at the reasons therefore.

Trespassers Will Not Prevail

So long as we police our own yard, trespassers will not prevail. What happens in our courts must become and remain our business. The law school and the legal profession should proceed together to take a larger hand in what is going on.

It can be recalled that tyrants of old used the charge of Common Law conspiracy to rid themselves legally of persons or groups of persons who were troublesome to them. We have all read how the King would make a charge of conspiracy in the Star Chamber Court and the extreme latitude of prosecution that was allowed in order to further his case. By this method, any witness could be asked about anything that the defendant or anyone said of did anyplace at any time. With such indulgence, who would find difficulty in obtaining a conviction?

It is being told in many quarters today that people in our government and people in our courts are rushing to file the charge of conspiracy for the very same reasons the King had in the Star Chamber. This is being said despite the knowledge that Federal and State enactments have abrogated most or all of the common law in this area. The accusations go on to say that whole groups of dissidents are being attacked in this manner and that the government is systematically springing the trap of conspiracy on all of dissent wherever and whenever possible. Be the victims Black Panthers or White Hopefuls, this is a terrible thing. It is difficult to believe that any arm of our government would prefer for political or expedient reasons to use a conspiracy charge on a group instead of indicting and trying the one or two members of that group who are allegedly at fault and freeing them if they are not. It is even more difficult to believe that the purpose behind all this is to stifle dissent and prevent legal demonstration. Whether or not these are truths, the suspicion thereof constitutes one of the major reasons that the ranks of the dissidents have been swelling. Moreover, there is some evidence that these practics often result in conviction for a larger crime than the one committed. No free society can afford to tolerate this.

Lawyer's Rule

Cannot we of the law provide someone to solve this enigma? Textwriters have often been known to influence government and judiciary. Someone more experienced and able than I should come forth with an investigation to prove or disprove thse possibilities. A government or any arm thereof which conspires to use the courts to destroy any of its subjects wrongfully should be stopped. A government which is accused of this deed and is not culpable should be exonerated.

It is a criminal offense for persons to conspire willfully, under color of law, to deprive anyone or any group of any rights secured by the constitution. The fact that the government and officers of the court enjoy a degree of immunity herein would not make these deeds less wrongful. If a murder has been committed, let the facts and the law convict the murderer, whether he be police or policed, and not innocent people who happen to belong to the same organization or group. There can be no justification on any ground for the government to file conspiracy charges with the object of getting the entire group rather than trying the one or two who are alleged to be guilty. It is difficult to believe that this has happened in our courts, but the trials of Dr. Spock and the Chicago trials have become more than suspect, as have others.

The American people are daily winning their escape from being fooled and it is to the youth generation and the minorities that we must give the credit. We need their young outlook, their self-sacrificing ardor and their ceaseless search for what is right and true. We need to learn from them to discard the antiquated, the disproved, the corrupt and the useless parts of the traditional.

It has always been a function of youth to express dissent. They do so with courage and abandon. But courage is not enough. Courtesy, tact and tolerance are not really anachronisms. Common sense safety measures and preparation for better results are important. Noises from people who do not know their own thoughts until they hear them issuing from their mouths are never very helpful.

Past Progress

The progress of the past is not a delusion. Good values remain good values. Thousands of advances and improvements have been realized during the years of the past few generations. Quiet temper and faith in humanity can be joined with a steadyness of purpose and a functioning intelligence to accomplish much. Once the necessary tests of clamor, dissent and protest have been met, cool heads are better than none.

The putative national spirit of fair play is being challenged by today's events. Presently divided and weakened, the force that will build our future needs all of us. There is no excuse for police brutality on our streets and in our prisons, no possible reason for tolerating poverty, want, disease and lack of opportunity in our midst. We of the law should be working in all of these areas. Many of us have been. But we are now faced with a need in one area in which time is of the essence to a tremendous degree. We can no longer overlook the possibility of questionable filing of conspiracy charges in our courts. When any government attacks the freedom of any segment of its people, it is not only fracturing the bulwark of liberty, it is laying a heavy hand on every human being in the nation.

Chicano Law Students Man New Service Center

UCLA Chicano Law Students open their Casa Legal Services office today at 9 a.m. in East Los Angeles, according to Thomas Sanchez, student coordinator for the project.

The new effort on the part of the Chicano students is designed to better serve the Mexican-American community. The project will be housed in the California State Service Center, 929 N. Bonnie Beach Street. According to Sanchez, a third year student, the center will be manned from 9 a.m. until 6 p.m. daily by UCLA students, with some assistance from USC and Loyola Chicano law students.

The new center's purpose is to screen and refer indigenous East Los Angeles clients to the local Neighborhood Legal Services office, and to do preventive counseling in the area of welfare rights, landlord-tenant and consumer fraud.

Aiding the students will be three attorneys from the Legal Services Office and four attorneys from the State Service Center. Also assisting in this endeavor will be two recent law school graduates who are presently working under Reginald Heber Smith Fellowships. One of those graduates is Ralph Ochoa, a 1969 UCLA grad.

Chicano students from UCLA already volunteered for the project include: Rick Aquirre, Ricardo Munoz, Loretta Sifuentes, Cornelio Hernandez, Charles Nabarette, Lupe Martinez, Henry Espinoza, Percy Duran and David Ochoa.

Reserves' Requirements Contract Is No Bargain

by JIM CORDI

Last year the Law School's corridors buzzed with the exchange of strategies for circumventing the demands of Uncle Sam for two years from the lives of many of us. Since two years is a long time, especially when spent in the way that Uncle Sam has planned, and since the possibility of ending up in (and not returning from) Viet Nam is always present, the search for solutions was quite intensive. A few Law Students, myself among them, rejected such alternatives as fleeing the country and making groundless appeals, and being disposed to compromise, joined the Army Reserves or the National Guard. That route, as it takes little imagination to guess, hardly involves an avoidance of military service. However, at the time I made the decision to join, all the advantages of doing so fairly seemed to leap out and grab me by the shirt front. That is, it seemed obvious to me that here was the most advantageous solution to my problem, and I grasped at it.

Beginning on June 20, 1969, at the Fort Ord, California Reception Station, I experienced a drastic, but too late, change of heart. For the Army had me right at the dirty end of that open enlistment contract I had signed. I soon learned that the essence of such a contract was that, in return for my obeying hordes of obnoxious, green clad people with stripes on their arms, the Army furnished me with absolutely no considerations whatsoever. Certainly, Williston and the Restatement of Contracts would hardly have approved, but no one at Fort Ord seemed to regard them as authorities. Here was indeed a bewildering situation for a law student to find himself in. But I had little time for extended legal analysis of my situation, for I was too busy taking orders. One problem an Army trainee does not have is planning his day, or his night for that matter. He's constantly busy doing what hardly ever resembles, even remotely, anything he might want to do. He is principally motivated by a desire to minimize the barrages of harassment and (usually) empty threats which are flung at him with the rapidity of (parden the expression) machine gun fire.

Now that I have had an opportunity to test this particular alternative to the draft, if I had it to do over again, I might just pick one of the others.

Dean Schwartz Speaks Before Senate on Murphy Amendment

Law School Dean Murray Schwartz spoke at a recent hearing of the Seanat Subcommittee on Employment, Manpower, and Poverty on the "Murphy amendment" which would have given state governors a veto over legal services programs. He was part of a panel also including the deans of the law schools of the University of Minnesota and the University of Pennsylvania.

Dean Schwartz presented a statement of nine California law school deans urging defeat of the amendment — "It is inconsistent with the Canons of Professional Ethics which we endeavor to instill in our students. It constitutes a direct infringement upon the independence and professional responsibility which are essential to the proper functioning of our traditional system of justice."

He illustrated the impact the amendment would have by describing the legal services programs existing at UCLA, and beyond this, the impression its adoption would make on law students:

"Today's law students are somewhat different from earlier generations of law students. By and large, almost by definition, law students have traditionally been among the most conservative of the students in our university.

"There is a major change in their attitudes. They are terribly concerned with the problems the structural, the legal problems of this country.

"They see when they work in the ordinary legal aid offices this constant stream of people who are plagued with problems to which reference has been made, the garnishment, the landlord-tenant problem, the welfare check, and all the rest of them, and ultimately they have to come to the conclusion that something is wrong someplace."

"Adoption of the Murphy Amendment, in my view, will have a real impact on the adequacy of legal services. But even beyond that, it will have a symbolic impact upon our students, because it will represent to them the idea that 'the Establishment,' as they see it, no longer wishes to be challenged even through the courts." The amendment failed.

ABA-LSD Stresses Student Involvement

The Law Student Division of the American Bar Association is striving to involve itself in the legal community. It's Ninth Circuit, headed by Susan Tanzman, a third year student at Loyola Law School, publicly opposed the nomination of Clement Haynsworth as Supreme Court justice and the Murphy amendment on the governor's veto of legal services programs. The Ninth Circuit has over a dozen committees that are seeking students interested in participating — at UCLA, contact Myron Anderson in the SBA office for further information. The activities include:

The Willowbrook Community Volunteer Center - - students will be working with legal aid attorneys and teaching courses in the community.

Court rules: an attempt to develop an internship program to allow third year students active roles, conducted in cooperation with the state and local bar associations.

A high school contact program, in which law students will meet for informal discussions with a high school class -- once a week for ten weeks.

A committee to better relations with the State Bar Association, and to seek student representation on the committees relevent for students.

Preparation of a pamphlet to urge the ABA to include students at unaccredited schools for membership in the Law Student Division.

Student work on minority student placement in large law firms, consumer protection, and migratory farm labor laws.

PAD Offers Pizza, Movies, Speakers

PAD Lives! . . . despite the defeat of our brother Clement Haynsworth's nomination to the U.S. Supreme Court. Last Thursday, the brothers got together for a friendly afternoon of beer and pizza at Westwood's Pizza Palace.

And in the next few weeks, the chapter will sponsor a movie for all students on the use of legal research materials, put out by West Publishing Co., which will be especially helpful to first year students working on their moot court briefs. And a panel of young attorneys will describe "what it's like" - - emphasizing their personal reactions to the kind of jobs they're doing instead of just cataloging the areas of law practice.

Next fall we can all expect the air to be cleaner and easier to breathe around Los Angeles, due to the efforts of our clerk, Ken Cirlin, who is one of the first group of the Air Pollution interns to be chosen. Even though we know he is an outstanding student, his selection surprised us a little because we know of his personal inclination to get polluted on occasion.

Student Comment

The following description of a law student may seem familiar to many: (from J.T. Tinnelly, **Part - time legal education**; Foundation Press, Brooklyn: 1960) "At first demands to keep awake but finally, closing his eyes, he succumbs to the demands of his tired body for sleep and rest. For some time he nods. Then as he returns to the threshold of consciousness, he feels what he diagnoses as mental fatigue, an inability to do mental work. **He experiences repugnance at the thought of returning to the study of assigned cases. The repugnance may amount almost to a sort of mental nausea.**

He feels dull and stupid. He experiences a craving for sleep, mixed with a desire to look at television or read the evening paper. He has a feeling of heaviness in his head, pains in his chest or back from leaning against the desk, and if he has the ability to analyze his feelings at all he would sum them up as a realization of his lack of ability to do further work! (Emphasis added.)

Test to Separate Wheat from Chaff

Mike Josephson, '67 grad of the UCLA Law School, composed the following test to separate "the wheat from the chaff," (Reprinted from the September 30, 1966 issue of the **Docket**)

1. Law is: a) a jealous mistress; b) an ass; c) a pitcher for the Pittsburgh Pirates; d) all of the above; e) none of the above.

2. A tort is a: a) small fruit-filled pastry; b) jealous mistress; c) intrauterine device; d) bad thing done by a tort-doer; e) slang term for tortilla.

3. Capital punishment is a) nice; b) barbarous; c) electing Ronald Reagan to another term; d) an effective deterrent to the person punished; e) cheaper than life imprisonment.

4. The Palsgraf case is important because it: a) formed the basis for a novel, **The Push Heard 'Round the World**; b) established the doctrine of first-in, first-out; c) demonstrated that the scales of justice can fall heavily; d) is a pedagogical tool; e) inspired "truth-in-packaging" legislation.

(The correct answers, for those who could not immediately get them, are: e, d, d, d.)

SURPRISE! BRUINS FAVORED IN BASKETBALL RACE

by Jon Kotler
Sports Editor

It's 1970, a new year, and so what else is new? As usual, USC opened its football season nine months ahead of the other local teams with an exhibition game in Pasadena, the Rams are still waiting for next year, Mayor Yorty is out of town, Palos Verdes is sliding into the Pacific, Governor Reagan continues his war on the University, and surprise, the Bruins are favored to win the Pac-8 basketball title.

The latter fact shouldn't really surprise anybody, despite the absence of Lew Alcindor, (who now owns the city of Milwaukee, part of Lake Michigan and several surrounding Wisconsin counties) because John Wooden's crew, as always, is loaded, and though the Bruins may have more narrow escapes than in the last couple of seasons, they will still be just that - - escapes, not losses - - and the outlook is bright that still another championship banner will fly from the rafters of Pauley Snakepit.

A look at the team's statistics after a third of their schedule confirms that the Bruins are fielding one of their best balanced squads in history, with only 3.2 points separating the scoring averages of the top four point-makers. In addition, all five starters are averaging in double-figures, a feat which has made the New York Knicks the current talk of the NBA. And yet, you wonder why it took the pollsters so long to install the defending National Champions as number one over Kentucky.

GREAT STARTERS

Indeed, the Westwood starting five - - John Vallely, Sidney Wicks, Henry Bibby, Curtis Rowe and Steve Patterson - - are the best starting five on the Coast, if not in the country, and this is the reason that all Pac-8 coaches and writers have tabbed the Bruins as conference favorites. But the quality of the team after the starting five drops off drastically, and subsequently, this is the reason that all Pac-8 coaches and writers have pointed out that the Bruins can be beaten, albeit not on a regular basis.

One thing that this year's team has already shown, by means of three harrowing victories over Minnesota, Princeton and Oregon State, is that when it is in foul trouble and/or having a cold shooting night, there is no longer any big man to turn to who can bail them out, and it's strictly Katy bar the door. So far they've been successful. Whether this success continues on the road, especially in the Northwest, is anybody's guess, but chances are that it will.

Those who feel the Bruins lucky in their squeaker, last second wins, are probably the same people who also were convinced that John McKay's football Trojans were lucky every time they pulled out one of their games late in the fourth quarter. The truth is that one of the marks of a championship team is that it can and does regularly win the close ones, and like McKay's, Wooden's Bruins are in all probability heading for their consecutive Pac-8 title.

As for possible roadblocks on the road to that crown, the Washington Huskies would have presented a formidable foe had not two of their best players, guard Rafael Stone and center Steve Hawes, both suffered ankle fractures in freak accidents early in the season. Still, the Huskies are fairly deep, and if they can hang on until the return of these two, which UW Coach Tex Winter optimistically predicts will be in early February, they may yet make things difficult for the Bruins. A team that boasts such fine players as high-scoring George Irvine, Pat Woolcock and Dave Willenborg is hard to count out so early, in spite of the above-mentioned crippling injuries.

Another team that would love to ambush the Bruins are the USC Trojans, current holders of a one game win "streak" over John Woodin and Co. after so many years of frustration. The Trojans are a young team, and possess almost unlimited potential, but having played together for so short a time, and being as inexperienced as they are, and hence, often erratic, this observer feels they are at least a year away from a serious run at the title.

GOOD START

Led by JC-transfer guard Mo Layton and ever-improving center Ron Riley, the Trojans are off to their best start in years, with impressive victories over some of the country's finest teams —("Campussport," a computer rating service of the "Los Angeles Times", maintains that the Trojans play the toughest schedule of any major college or university basketball team). However, in listless losses to such as Seattle and Houston, USC looked somewhat less than world-beaters. But as in the case of Washington, it would be foolish to dismiss too lightly a team that has so many fine and still-developing players, including guard Paul Westphal, cornerman Joe McKay and string-bean forward (6'8", 180 lbs.) George Watson. If these boys can continue their progress, and if Don Crenshaw can regain his form of last season, the Trojans could cause lots of trouble.

Another strong team, in this toughest Pac-8 in years, are the Oregon Ducks, who, despite recent losses on a visit to Los Angeles, still can play a great factor in determining the league champion. The Ducks also are playing without one of their best players, forward Larry Holliday, who was second in conference rebounding last year to Big Lew, despite being nearly a foot shorter. However, his dislocated shoulder is expected to be healed by the time the Bruins arrive in Eugene on Feb. 21.

But until that time, Coach Steve Belko is hoping that starters Steve Love, Rusty Blair, Bill Drozdiak, Bill Gaskings and Ken Strand can hold his Ducks close to the leaders, though even if they can, the Ducks seem destined, at best, for spoilers' roles in 1970.

Up in the Palouse, Washington State's Cougars are growling and spoiling for a fight, confident that they may have the makings of a league champion. With some breaks, they could be right, as Coach Merv Harshman has assembled another respectable WSU basketball team, led by guards Rick Erickson and 6'5" former-forward Dennis Hogg and center Jack Bergensen.

The Bruins must play the Cougars back-to-back, beginning with a contest at the Cougars' bandbox gym on Feb. 9, followed by a game at Pauley the following Friday, Feb. 13. These games are both vital to the Bruins' title hopes, but the first of these, at Pullman, must rate as one of the key matches of the year for both teams.

GOOD ON PAPER

As always, Cal seems to have all the ballplayers and none of the desire, and consequently, a fine, on paper at least, Berkeley team, is off to another mediocre start. Whether Coach Jim Padgett can instill some fire in the likes of guard Charlie Johnson, forward Jackie Ridgle, and the rest of his Bears, will determine what kind of a season the team from Harmon Gym has. Potentially, it can be their best in years, but in recent years, the word "potential" has become just a synonym for "Golden Bear." If their sophomores, Ansley Truitt and Phil Chenier, who haven't been overexposed to the veterans' lack of enthusiasm come through, the Bears may once again inspire more than a little fear and anxiety in the hearts of their Pac-8 opponents.

Oregon State, with returning seniors Gary Freeman, Vic Bartolome, and Vince Fritz, figured prior to the season, to be one of the Bruins' chief competitors this year. But the Beavers, for a variety of reasons, won only three of their first eight games, before blowing two more to the Bruins and Trojans on their recent visit to Los Angeles. However, their near-win at Pauley served notice on all who were wondering, that the Beavers are back, and like their neighbors in Eugene, they plan on having a big say on who represents the conference in the NCAA playoffs in March.

That leaves only Stanford, and it promises to be a long season for the diminutive Indians. Already off to a poor start, Howie Dallmer's squad is led by hot-shooting guards Claude Terry and Dennis O'Neill. Unfortunately, a team needs more than two good guards to win consistently, and the Indians have little else. Still, you know the old adage about how on any given night a poor team may rise up and defeat a stronger team, etc. Thus, you'll find that many fans at the Farm have suddenly become great believers in adages. And after being ambushed by the Indians on Jan. 16, the Cal Bears are believers too.

ET CETERAS: When the Blue Bombers were shut out by the SAEs in the quarter-finals of the IM football playoffs last month, it was more than just an ordinary defeat for several third year players on the team. For them, it was the end of the last chance they would have to regain the IM football crown for the Law School.

Members of the now-defunct LL.B. team for two years, and of the Blue Bombers this past campaign, Jeff Hancock, Terry Bird, George Echen, Dennis Mullen and John Mounier played on Law School teams which complied admirable records, however, reaching the IM semi-finals in 1967, and the quarter-finals both in 1968 and this past season. Few IM teams, if any, can match this record of achievement over the same 1967-69 span.

Finally, as a followup to October's "Sportlite" which dealt with the intransigence of the Athletic Ticket Offices of UCLA and USC on the matter of rooting section tickets for the Big Game, we are happy to report a major breakthrough which augers well for the future.

Last month, prior to the playing of the Trojan Invitational (formerly known as the "Rose Bowl"), the USC Athletic Ticket Office made it known that all student tickets for the rooting section would be reserved and distributed on a first come, first served basis.

In spite of the fact that this announcement was cheered by over 12,000 Trojan students whose trial by ordeal would become a thing of the past, the USC administration went ahead with its "radical" plan (as suggested here in October) and the pre-game lines of past New Year's football games became only a horrible memory.

Naturally, the plan worked out fine, especially as far as the students were concerned, while creating little, if any extra work for the employees of the SC Atheletic Ticket Office.

This being the case, there is no reason why such a reserved-seat student section could not be implemented in time for next year's Big Game.

That students on this campus no longer will tolerate the many hours of line-standing required as a prerequisite to attending an SC-UCLA football game was made abundantly clear to the Bruin Athletic Ticket Office this past November when it was "stuck" with more than 5,000 unsold student tickets. This was a remarkable situation for a game which had so much riding on it.

ULTERIOR MOTIVE

But there just might be an ulterior motive behind this seeming madness practiced by the Athletic Ticket Office, because the 5,000 "unsold" student tickets were resold to the public at twice the amount they would have brought if purchased by students. The reasoning of the Ticket Office people might have been to make things so difficult for prospective fans that only the hard - core football nuts would be foolish enough to put up with the pre-game lines and hours of waiting, while "sane" students would fail to pick up their tickets, instead opting to watch the game on the tube. Result: a tidy profit over what would have been netted if things had been made easier for the students.

However, to ascribe such Machiavelian scheming to the folks at the Ticket Office is to give them credit for far more intelligence than they have displayed in the past, and it must be concluded that they simply lucked out in receiving the aforementioned windfall.

Nevertheless, USC proved that a reserved-seat student section can work, to the benefit of many, and to the detriment of none. It will be most interesting to see if this innovation is carried on next year or is junked because it makes things too easy on the students, which is bad, because as we all know, suffering breeds character.

Pacht Still Optimistic

(Cont. from Page 1)

State cases, Pacht speculated that they would not be as lenient as the straight probation granted to a campus cop in south Los Angeles who killed a black youth whose only offense was to scale a campus fence to play basketball with a few of his friends.

Despite this role call of problems, Pacht, as noted, still maintains his optimism. Not all of his listeners appeared to agree that the trend set by a few "bright young law students" was sufficient to justify his hopefulness.

Black Organizations . . .

(Continued from page 2)

ed state and county grants to white children to attend private schools. In **Griffin v. County School Board of Prince Edward County** the Court held that this arrangement violated the equal protection clause. Justice Black, writing for the majority, said that "the time for mere 'deliberate speed' has run out, and that phrase can no longer justify denying these Prince Edward County school children their constitutional rights to an education equal to that afforded by the public schools in the other parts of Virginia."

The freedom of association has also been limited in cases where "freedom of choice" plans have resulted in the continuation of racially segregated schools. Under a "freedom of choice" plan any child in the district could attend any school of his choice within the district. In **Green v. County School Board of New Kent County** no Negro child applied for admission to the white school and no white child applied for admission to the black school. The court wrote:

> School boards such as the respondant then operating state-controlled dual systems were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated **root and branch**. (Emphasis added).

The Court went on to hold that under the facts the state's "freedom of choice" plan constituted a denial of equal protection contrary to **Brown**.

Both Negro and white parents would be required to take affirmative action to bring about integration of the schools under a "freedom of choice" plan. If parents cannot defeat the thrust of **Brown** by refusing to send their children to integrated schools why should students be permitted to form segregated organizations within the school when the constitution requires "root and branch" elimination of racial discrimination in education?

Denying blacks the right to form an exclusively black organization does not mean that blacks may not gather together at a school picnic or at a particular place in the student union. The plain meaning of abridgment of the freedom of association must not be construed to penetrate too deep into the sanctuary of privacy. Finding exclusively black organizations outside the purview of the freedom of association does not absolutely deprive blacks of the right to associate. Any exercising of the freedom of association is conditioned on conforming to constitutional principles. What is intended is that black and white students organize themselves as one for common purposes and mutual benefit. It must be remembered that recognizing the legitimacy of black student organizations is to adopt a policy of gradualism in the area of desegregation of schools. **Brown II**'s mandate which directed that desegregation proceed "with all deliberate speed" would appear to allow blacks to adopt such a policy, but in light of **Alexander v. Holmes** the phrase has been replaced with a directive to integrate at once.

Assuming that the state has the power to abridge the rights of blacks to establish black student organizations, may the state exercise its power although the exercise will abridge the freedom of expression guaranteed by the first amendment? Conceding blacks must be given the right to petition for redress of grievance, black student organizations should, nevertheless, be considered **prima facie** unconstitutional. Upon a showing that black interests are not being adequately represented by the state and invidious discrimination results therefrom, black students must be given permission to organize on an ad hoc basis to remedy any evils. Sensitive and responsible whites should be encouraged to participate in the pursuit of any organizational objectives. A question immediately arises as to what factors are critical indicators of invidious discrimination and who is to determine that such discrimination exists. It is not within the scope of this article to answer these questions. What is intended is to point out that blacks cannot be arbitrarily denied of the right to organize if so doing unconstitutionally abridges freedom of speech.

Whenever a black student organization is permissible it acquires an affirmative duty to represent the interest of black non members. This right to fair representation arises because the black organization at the moment of creation becomes clothed with powers not unlike that of the state which is constitutionally obligated to protect the rights of black students regardless of whether such students be members or non members of the organization. Upon the establishment of the organization the state acquires the correlative duty to supervise the organization and to restrict it when necessary to ensure that the rights of non-members as well as members are protected. This conclusion is supported by analogous reasoning in **Steele v. Louisville and Nashville Railroad**. In this case the union was the statutory representative for the railway firemen. The union was the exclusive bargaining representative for **all** firemen. Negroes were not permitted to be members of the union. An agreement entered into between the union and the railroad provided for restrictions on the hiring and promotions of Negroes with the ultimate end of their exclusion from work as firemen. In holding the union must fairly represent the interests of the Negro non members, the court said:

> We think that the Railway Labor Act imposes upon the statutory representatives of a craft at least as exacting a duty to protect equally the interest of the members of the craft the constitution imposes upon a legislature to give equal protection to the interest of those for whom it legislates. Congress has seen fit to clothe the bargaining representative with powers comparable to those possessed by a legislative body both to create and restrict the rights of those whom it represents . . . but it has also imposed on the representative a corresponding duty . . .

The segregation by blacks into black student organizations is private discrimination, but the discrimination is not in an exclusively private domain. Under **Reitman v. Mulkey** it may be argued that there is significant state involvement in such private discrimination because of the close nexus between the state and the university. The ultimate impact of all this is that the state denies equal protection under the laws when its universities promulgate rules and procedures which allow or encourage students to form student organizations which base membership on racial classifications.

Equal protection is denied because race is presumptively a suspect classification. What this means is that race is both relevant and irrelevant to the overriding public purpose of desegregation. The issue now becomes whether a standard of relevance can be articulated. Under Harlan's view expressed in his dissenting opinion in **Plessy** the constitution is color blind. Nevertheless, the broad implication of Brown compels the state to provide a remedy for the aggrieved victims of inequities arising from past and continuing racial discrimination. Thus, the state could properly provide compensatory grants to Negroes who have attended segregated high schools as well as exempt them from certain qualifying examinations where background has made the examinations an unreliable measure of potential. Under these circumstances color consciousness becomes a necessary constitutional requirement. The following examples demonstrate how the relevance of a particular black group might be determined:

A. A team consists of the ten best basketball players who just happen to be black. Any negative effects of mere chance racial association does not **prima facie** deprive blacks of the right to an equal education under **Brown**. See D below.

B. Ten blacks in the top ten percent of a law school class want to organize for the purpose of informing judges that blacks are superior students. The positive educative effects of Negroes' asserting their superiority could be found relevant to the national goal of desegregation. Here, there exists no conflict with the equal education guarantee articulated in **Brown** nor is there an incident of slavery interferring with social mobility as contemplated in **Jones**.

C. Ten blacks in the bottom ten percent of a law school class want to organize for the purpose of improving their class rankings. In this case the existence of an organization of low achievers' could be found to establish a badge of slavery emphasizing the inferiority of blacks in contravention of **Jones**. The import of **Jones** seems to render it irrelevant that blacks rather than whites are demanding a manifestation of a badge of slavery. In this situation the state must find an alternative means of achieving its objectives without drawing racial distinctions.

D. If the ten blacks in the bottom ten percent of the class are also the ten best basketball players in the school an incident of slavery could be shown. The state may dispose of the issue by deciding that playing basketball interferes with the right of black students to an equal education and thereupon remove them from the team.

In articulating a standard of relevancy the following considerations now seem necessary: (1) What is the state's purpose in making or allowing the racial classification, (2) Is the aggrieved victim of the discriminatory classification benefited by the classification, and (3) Can the state achieve its objective by measures which do not draw racial distinctions? These matters will be considered in conjunction with the equal protection clause and the Thirteenth Amendment.

The Thirteenth Amendment like **Brown** expressly addresses itself to black people. The text of the amendment reads:

> Section 1. Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.
>
> Section 2. Congress shall have power to enforce this article by appropriate legislation.

In **Jones v. Alfred H. Mayer, Co.** the Supreme Court wrote in construing the Amendment:

> By its now unaided force and effect, the Thirteenth Amendment abolished slavery, and established universal freedom. Civil Rights Cases, 109 U.S. 3, 20. Whether or not the Amendment itself did any more than that - - a question not involved in this case - - it is at least clear that the Enabling Clause of that Amendment empowered Congress to do much more. For that clause clothes "Congress with power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States. Ibid. (Emphasis is Added).

Consider also a law student note:

> A "fundamental right" which should be protected under the thirteenth amendment may be defined as a right crucial to the capacity of Negroes to throw off the last shackles of slavery and to achieve social mobility.

In conceding that the thirteenth amendment does not require state action before it can be applied to reach incidents of slavery within the states it is submitted that the amendment is helpful in ascertaining relevant standards where a racial classification is thought to be invidious as violative of the equal protection clause. Moreover, this is contended in full recognition that the amendment can be an independent means of establishing the unconstitutionality of black student organizations. Of course, the assumption is that black student organizations are **prima facie** badges or incidents of slavery.

The relation between the thirteenth amendment and the equal protection clause is most pronounced where some black students (hereinafter called non members) prefer not to have an organization. Non members might reasonably conclude that exclusively black organizations have connotations of a slave history **vis a vis** the white race, or as already stated, the black student organization's policy of private discrimination denotes the inferiority of the black race in opposition to **Jones**. Member blacks will argue that the racial classification established by them is benign and in the long run will benefit blacks as a group.

In **Shelley v. Kramer** the Supreme Court declared that the equal protection clause confers individual rather than group rights to equality. This should be interpreted to mean that the rights of individual non members cannot be considered protected on the rationale that their individual rights to equal protection are coextensive with the rights of organized blacks but for the refusal of non members to organize. In other words, constitutional guarantees of non members should not be conditioned on their being compelled to organize.

White students are similarly deprived of equal protection where exclusively black student organizations are permitted to exist. White students are not allowed to form solely white organizations because as to them a racial classification that excludes blacks is suspect. No justification can be found for the exclusion of blacks by whites. The impact of an exclusively white organization creates feelings of inferiority in black students. Excluding white students from black student organizations deprives whites of the equal educational opportunity to learn about the important matters concerning black students they see every day. Black organizations are believed by whites to be the voice of black grievances and the expression of hope seldom stated publicly by black students.

UNIVERSITY OF CALIFORNIA
School of Law
405 Hilgard Avenue
Los Angeles, California 90024

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