TWO YEAR BAR PLAN ON PAGE 2

UCLA DOCKET

BLUE BOMBERS TAKE TITLE, SEE PAGE 8

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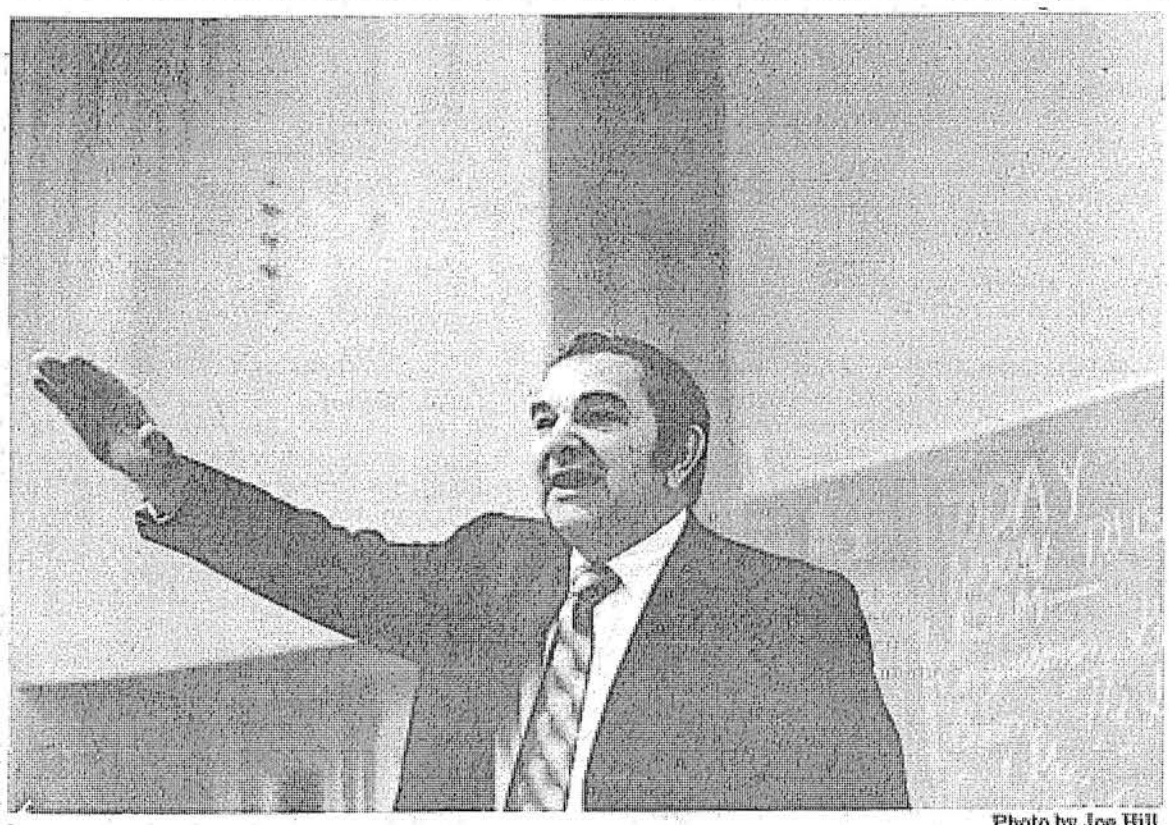

Photo by Joe Hill

CONGRESSMAN GEORGE BROWN attacks the Military-Industrial complex during his Nov. 6 Legal Forum appearance.

George Brown Hits Congress Military-Industrial Complex

By TONY ALPERIN

Congressman George Brown spared no sacred cows in his speech to students and faculty attending the Legal Forum on November 6. The Congressional establishment, the federal bureaucracy, the military-industrial complex, and the current day hierarchy of political priorities all took pointed criticism.

Brown, who is a candidate for George Murphy's Senate seat, believes that the United States is materially capable of creating a productive and satisfying life for all of its citizens. He finds incongruous the fact that one fifth of all Americans now live in poverty while politicans argue over whether to devote more of the country's resources to alleviate their plight. This alarming gap between our needs and our efforts must be filled soon, he stated.

Congress Lethargic

Congress has become one of the most lethargic and reactionary institutions in our country, he believes. Rather than carrying the momentum of social and economic change, Congress must be "dragged along kicking and screaming." The responsibility lies primarily with the entrenchment of a few conservative Congressmen and Senators in the power pockets of the national legislature. Through an antiquated and irrational "seniority system," these power wagers have locked themselves into control of the committees — the place where some of the most important Congressional work is accomplished — and have perverted the system to their own welfare.

The sytem of choosing Congressional "leaders" is based neither on electoral mandate nor merit. While the majority party chooses the leaders of each House, the relative strength of factions in either party are not represented. Old-time conservatives from safe districts in both parties gain chairmanships because of longevity. Members with special expertise and recent first election will be passed over.

System Is Wrong

Brown believes the "system is wrong and should be changed." He believes that change may come soon. For instance, liberal Democrats have constructed a "shadow committee system." Joined by liberal Republicans, they have formed informal units to do the work the real committees should be doing. In addition, they have challenged the conservative wing for the House Speakership. This year, Rep. Udall opposed Speaker McCormick for the Democratic endorsement for the important post. While he received the support of only one quarter of the House Democrats, Brown pointed out that all he would need the next time would be another quarter. If enough liberals could be nominated by the Democrats and elected, he feels that the present leadership could he supplanted and the system changed. Whether this can be done, he said, is up to the liberal leaders throughout the country. He did not feel that HHH and Muskie could accomplish this task.

The federal bureaucracy was another target of Brown's criticism. A power unto itself, it can break either the Congress or the President if the top bureaucrats choose. No one, he stated can really fathom the inner workings of the State Department or the Pentagon. Announcing what he calls "the Viet Nam Bureaucracy theory," he said, "this war was planned and organized by a bunch of spooks" from the CIA who from beginning to end have masterminded the war. They knew, he said, that Ho Chi Minh would win any national election. Step by step, the effort to keep that nation allied to us has led to the catastrophe it is today.

Re-evaluation Needed

Our priorities need a drastic re-evaluation, stated the congressman from California's 29th district. The money now spent on armaments and hostilities should be budgeted rather for the problems of air and water pollution, the economic wastelands of the inner cities, and eradication of ignorance and disease.

After speaking for about thirty minutes, Brown agreed to answer questions. In answer to a question by the author, he stated that he supported the effort by Rep. Celler (Dem. — N.Y.) and Senator Hart (Dem. — Mich.) to abolish the death penalty for all federal crimes. He also an-

Continued on Page 6

Annual Photos

Photographs for "Law 70" will be taken in Library room A-175 next Tuesday and Wednesday, November 25-26. All students are urged to plan to have his or her picture taken by the photographer on one of these two days, between the hours of 8 a.m. and 5 p.m.

No appointment is needed and the time involved to the student will be but a few minutes.

Photographs of groups and faculty members have been scheduled for December 1-5.

Pot Wins, Color Television Loses

Sixty-eight per cent of the U.C.L.A. Law School student body have smoked marijuana and 80% of the student body believe possession should be legalized. While the subject of marijuana drew the greatest response, the S.B.A. sponsored referendum polled student opinion on a series of topics including purchase of a color television, return to a "new" semester system, and support for a Bar Exam after only two years. The results were as follows:

Marijuana: Have you ever smoked marijuana? Yes - 255, No - 123. If your answer to the above was yes, do you plan to continue? Y-179 N-57. Do you think possession of marijuana should be legalized? Y-294 N-74.

Semester System: (choose one) Prefer the semester system currently under consideration. . .-98; Prefer some other semester plan. . .16; Prefer present quarter system. . .233; no preference. . .34.

Color Television: The exact results have been temporarily misplaced but the count was roughly 2 1/2 -1 against the allocation.

Bar Exam: Do you prefer the proposed changes over the present proceedure? Y-305 N-49.

Trial Tactics: (3rd year students only) 23 want to take the course while 18 do not.

Fleishman Study

The marijuana questions were submitted by Allen Fleishman, S.B.A. vice president as an initial step in what he hopes to be a significant report to the national public on marijuana. The proposed study consists of two steps. Phase I is a compilation of the following: a) The number of law students state wide who fall into the respective categories of the referendum; b) A comprehensive listing of the recent scientific studies which have been **completed** and which demonstrate conclusively that marijuana is non-addictive; c) A compilation of the penalties meted out in California recently demonstrating the harshness of the sanction. Using the prestige of law schools, Phase II will consist of the publication of the results in the major national news weeklies as well as individual mailings to the members of the United States Congress.

Fleishman stated that he hopes to dispell three commonly held myths regarding cannibus. "I wish to show first, that marijuana is not limited to some sub-strata of white youth but in fact is freely smoked by our most 'prestigious' of students. I further hope to do away with the latest attack on grass, namely that not enough research has been done. We can continue to look for negative data but the point is simply that research has been recent, extensive, and positive."

Liquor or Pill?

Fleishman noted that while marijuana is often compared to liquor, he would liken it to The Pill in that the extent of research into the so called long term affects of each has been about equal. Finally, he stated that he wished to demonstrate that "nice" kids aren't getting only a "slap on the wrist". He pointed to the wife

Continued on Page 2

Faculty Okays Quarter Plan For 1970-71

The Law School will remain on the quarter system next year.

This result was reached at a faculty meeting immediately following the tallying of the student referendum last week.

While the faculty reportedly voted 22 to 1 in favor of the semester system in a vote last spring, much opposition had developed among the faculty following a strong student vote in favor of remaining on the quarter system last spring.

Misunderstanding Suggested

It was suggested by some faculty members that the students had not fully understood the proposal when it was presented to them last year. Accordingly, a forum and publicity campaign were held this year prior to resubmitting the question to the student body.

The result was an even more overwhelming student rejection of the proposed semester plan (see "referendum story").

Memos Drafted

In the meantime, Associate Dean Bauman had drafted a memo outlining some of the administrative difficulties in the proposed switch. And Prof. Gary Schwartz had circulated

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Hayden Pessimistic On Trial

The UCLA chapter of the National Lawyers Guild sponsored an appearance here on Nov. 8 of Tom Hayden, co-founder of the Students for a Democratic Society (SDS).

Hayden appeared in the role of defendant in the Chicago Conspiracy trial. He was accompanied by two of his former attorneys, Prof. Michael Tigar and Beth Livesy.

The forum was slated to highlight the assertion that the trial in Chicago federal district court is basically an oppressive political movement guided from Washington, and not a true judicial proceeding.

Tigar, who had previously been jailed for contempt by the trial judge, expressed pessimism about the state of American justice today. Defense Attorney Beth Livesy expressed pessimism about the whereabouts of former defendant Bobby Seale, who had been seperated from the trial upon being sentenced for 16 counts of contempt by Judge Julius Hoffman.

Seale's contempt convictions resulted in a four year sentence, based on a 3 month punishment for each of the sixteen counts.

The Black Panther leader's removal reduces the "Chicago 8" to 7 defendants. In addition to Hayden, the remaining defendants are: David T. Dellinger, Rennard C. Davis and John R. Froines of the National Mobilization Committee to End the War in Vietnam: Lee Weiner, a Northwestern University graduate student; and "Yippie" (Youth International Party) leaders Abbott H. ("Abbie") Hoffman and Jerry Rubin.

THE UCLA DOCKET

The Student Newspaper of the UCLA Law School

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BAR Examination Revision Due

The Committee of California State Bar Examiners has before it recommendations for substantial revision of the bar examination procedures in California.

The proposed revision, in essence, would:

(1) eliminate "optional" questions

(2) permit, but not require, students in accredited law schools to take a basic bar examination in eight subjects before their last year of study and if they pass that examination, admit them to practice without further examination upon graduation from an an accredited school and completion of courses in certain prescribed subjects.

(3) require all persons who do not meet the qualifications for the basic bar examination to take an extended examination after completion of their studies.

The Committee believes that these proposals will give greater flexibility in curriculum development, to reduce the length of the period between the applicant's graduation from law school and his admission to practice, and to improve administration of the bar examination by the elimination of optional questions.

Under the proposed changes, the bar examination for UCLA Law School students would mean the following: (A) The bar exam would be a "basic" two-day examination consisting of a total of 16 questions drawn from eight subjects — Constitutional Law, Contracts, Criminal Law and Procedure, Equity, Evidence, Pleading and Practice, Real Property and Torts.

(B) UCLA students would be permitted to take the "basic" course examination after two-years of full-time study.

(C) The UCLA student passing this examination would then be certified to practice after completing the following units in the following courses: Federal Income Tax, Estate or Gift (3 units); Community Property, Family Law, Wills and Trusts and Estates (including Interstate Succession and Judiciary Administration) (4 units); and

Commercial Transactions, Corporations, Agency, Partnership (3 units)

The final requirement would be graduation from UCLA within 30-months prior to taking the basic examination or within two years after passing the basic examination. The 30-month period would be extended for good cause.

This proposal will be reviewed by the Committee next month and at that time will review comments made by members of the bar, representatives from law schools and law students. The Committee urges reaction from law students, particularly. Any UCLA students wishing to comment should write to: The Committee of Bar Examiners, 540 Van Ness Ave., San Francisco, 94102.

★

Students Plan Evaluation of New Faculty

By CRUGER BRIGHT

Student participation will be extended into an important area of Law School policy in late November when the Student Bar Association begins this year's Faculty Evaluation Program. The objective of the program is to obtain student opinion concerning the teaching performance of every Law School faculty member in each class he teaches. Initiated on a small scale last year, the faculty evaluation allows each student to express an opinion of the professor's interest in his class, or his effectiveness as an instructor, or other related matters by means of a quesionaire form provided by the SBA Faculty Evaluation Committee.

Ellen Friedman, chairman of the committee, reports that the evaluation program has received great impetus recently with the announcement of a new university policy which directs that student evaluations are to be considered in making faculty appointments. Mrs. Friedman announces that full cooperation has been extended by the Law School administration and by Prof. William Cohen, Chairman of the Law School Appointments Committee.

One of the more important immediate goals of the student evaluation according to Mrs. Friedman, is to help the administration make better-informed judgments in teaching assignments, by pointing up areas of special strengths and weaknesses in individual faculty members.

Law Wives See Game, Hold Sale

By WENDY DAVIS

I do hope that all of you who attended the Laker game and the party enjoyed the evening! It was a big success, thanks to all who helped with the delicious food.

The last general meeting featured Mr. Owens who is the Executive Director and Chief Council to Legal Aid. He spoke about the history the function and the problems of Legal Aid. The meeting also gave us a chance to give a Christmas gift for the Legal Aid nursery. There will be a Legal Aid workday in December. Anyone who is interested and would like to go, contact Peggy Gandy if you have not already done so.

The bake sale was delicious as usual, thanks to all who contributed their time to bake as well as sell. All of the proceeds from our bake sales go into the Law Wives Scholarship.

Professor Cohen give a first day Torts class as his subject for the November Professors Course.

The next general meeting will be January 7, watch for the poster.

Also in January we have Professor Tigar speaking on Political Trials for the Professors Course, a bake sale, and a Legal Aid workday.

Pot Wins

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of a fellow student arrested for possession of less than an ounce of marijuana. "She received a year's probation," he said, "with the added stipulation that the police may enter her and her husband's home at any time day or night without a search warrant. In addition she cannot possess liquor even though she is 24."

COMMENTARY

Booby Trap In Uninformed Vote

By JIM BIRMINGHAM

The students have spoken. In a referendum, conducted in accordance with all the rules thereof, the silent majority has been given a chance to make their views known.

Unfortunately, as is all too often apt to happen, the electorate has been pushed into the position of voting what the framers of the referendum wanted.

This isn't to say that the draters of the question intentionally controlled the result. It is to say that a series of questions were presented without adequate explanation to allow intelligent voting. This may be an unavoidable element of referendums conducted under a "deadline".

Vote Needed

The SBA had to know now whether or not to fund the purchase of a color television and/or the marihuana study proposed by Al Fleishman. A faculty committee needed an immediate student expression on the two year bar exam proposal. And the entire faculty required a student vote on the proposed change to the semester system. (The third year vote on "Trial Tactics", while well-intentioned, was so completely mis-drafted that it is hard to see why anyone wanted it, much less "needed" it.)

The vote on the quarter system was asked for in the mistaken belief that the students didn't understand what they were voting on last year. Obviously they understood fully well.

This understanding makes it difficult to hypothesize that they didn't understand what they were voting on in the other issues this year. But there is good reason for believing this to be the case, especially with the two-year bar proposal.

Good Points

It seems certain that the student body feels that it is advisable to "get rid" of the bar exam after two years. And, considering the existing "incentive level" of third year students it is only the naive who feel it has a lower level to which it can sink as a result of not being faced with the test. Further, reducing the number of subjects being tested from 15 to 8 is so clearly a step in the right direction that no vote is needed to establish its wisdom.

But few students were aware that the actual proposal under consideration retained the 15-subject "three year" bar for graduates of the state's non-accredited law schools. Nor were they acquainted with the arguments of those opponents, like one faculty member who refers to the "2" and "3" year bar exams as the "pass" and "fail" exams, respectively.

This professor explains that the state legislature refuses to allow the state bar to control the curriculum of the unaccredited schools. He believes the state bar presently uses the 15-subject bar as a means of insuring the teaching of a broad curriculum.

Booby Trap

The inference is that by channeling the "unaccredited" grads into an "easy" bar, it will be possible for the state bar to slide through the graduates of these schools. On the other hand, the "unaccredited" grads will be faced with an exam aimed at weeding them out of the profession.

When this idea of a "fail" bar is combined with this professor's observation that the accredited schools cannot presently hope to provide the need in the Black and Chicano communities for adequate legal talent, the "obvious advantages" of the two year bar exam are outweighed by the moral necessity of thwarting any proposal whose effect may be to limit the number of attornies coming from the Black and Chicano communities.

This should have been explained to us before we were asked to vote on this sugar-coated proposal.

Emerging 14th Amendment Issue In Public School Education

Editor's Note--The following article first appeared in the UCLA Law Review, Vol. 13, No. 5, and is what the Managing Board of the Docket believes is a meaningful statement upon a problem in public education. Dr. Harold Horowitz, the UCLA Law Review and the Regents of the University of California graciously consented to our reprinting of the article in a condensed form. Footnotes omitted.

By Harold Horowitz
UCLA Law School Professor

This article discusses the equal protection issues which may arise from the existence of such inequalities in educational services in schools in advantaged and disadvantaged areas. One question will be examined:

To what extent is there a violation of the equal protection clause if a school board administers its programs and allocates its resources in a way that results in a failure to provide substantially the same programs and services in schools in advantaged and disadvantaged areas?

I. PROVISION OF COMPARATIVELY INFERIOR PROGRAMS AND SERVICES IN SCHOOLS IN DISADVANTAGED AREAS


DR. HOROWITZ

"Education," the Court said in BROWN V. BOARD OF EDUC., "is perhaps the most important function of state and local governments. . . .In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of 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." The problem raised in this section is whether inequalities of the first type described above are a denial of the equality of opportunity required by the equal protection clause. There have been cases dealing with such inequalities. There were decisions before BROWN, during the regime of separate-but-equal, which held violative of equal protection inequalities in Negro schools of buildings and other physical facilities, course offerings, length of school terms, transportation facilities, extracurricular activities, cafeteria facilities, and geographical convenience, and, in the field of professional education, "intangible" factors such as reputation of faculty, position and influence of alumni, and prestige of the school in the community. In applying the separate-but-equal standard those courts applied a principle of "substantial equality." Subsequent to BROWN a 1958 New York lower court decision held violative of equal protection the providing to students in public schools with predominantly Negro and Puerto Rican enrollment lower ratios of licensed teachers than were present in other public schools.

The legal interest of a child in equality of educational opportunity in public schools is one of fundamental importance, and demonstration of differences in the nature and quality of educational programs in public schools in advantaged and disadvantaged areas would suggest a prima facie violation of the equal protection clause. In a specific case the issue would be whether the allocation of facilities, programs, and services provided by a school board to children in different schools was based upon a constitutionally permissible classification. Analysis of this equal protection issue would include consideration of the magnitude of the impact of the classification on those deleteriously affected by it, the purposes of the governmental program and the relationship of the classification to achievement of those purposes, and the availability of alternative means of achieving those purposes which would result in less adverse impact. Before turning to these questions it will be desirable first to inquire whether public school board officials, in administering their educational programs, must have a "discriminatory purpose" in order to hold invalid classifications which would otherwise not meet equal protection standards.

A. MUST THE INEQUALITY BE THE PRODUCT OF A DISCRIMINATORY PURPOSE?

Inequalities in educational opportunity offered to children in advantaged and disadvantaged areas would, presumably, not be required by the framework of state and local constitutional and statutory law within which a specific school district operated its public schools. The inequalities would most likely be an in-fact product of the school board's administration of its programs and its judgments made about allocation of resources throughout the entire district.

The manner in which a school board carries out its functions is, of course, under YICK WO V. HOPKINS, subject to the limitations of the equal protection clause. Because the state action allegedly violative of the fourteenth amendment would be that of an agency administering its programs within a framework of state law, would it be necessary to establish that inequalities in services made available to different children throughout the district were the product of a discriminatory purpose? The Supreme Court has articulated such a requirement in several cases dealing with allegedly unconstitutional actions of state administrative officials. In SUNDAY LAKE IRON CO. V. TOWNSHIP OF WAKEFIELD, for example, the plaintiff company sought to recover property taxes paid under protest, contending that its lands were assessed at full value whereas other lands throughout the county were generally assessed at one-third actual worth. A unanimous Court, in an opinion by Justice McReynolds, held that this inequality in assessment of taxes was not violative of the equal protection clause. The equal protection clause prohibits "intentional and arbitrary discrimination," the Court said, and "intentional systematic undervaluation" of other similar property would violate the constitutional right of the taxpayer taxed on the full value of his property. But "mere errors in judgment by officials will not support a claim of discrimination. There must be something more—something which in effect amounts to an intentional violation of the essential principle of practical uniformity." The Court could not find any "purpose or design to discriminate"; the taxing agency's action was "not incompatible with an honest effort in new and difficult circumstances to adopt valuations not relatively unjust or unequal." An analogous contention of unconstitutional action in assessing property taxes was made in MACKAY TEL. & CABLE CO. V. CITY OF LITTLE ROCK. Again the Court said that inequality in inclusion of property in the tax base did not establish what was essential for violation of the equal protection clause—"unreasonable discrimination" or "an arbitrary and intentionally unfair discrimination in the administration of the ordinance." In SNOWDEN V. HUGHES, the Court reiterated the need for discriminatory purpose to hold invalid administrative action carrying out statutes which were fair on their face. In SNOWDEN, an action for civil damages, plaintiff alleged that the defendant state election officials in violation of state law, filed a false certificate which deprived the plaintiff of nomination and election to the state legislature, and contended that defendants' actions were violative of the equal protection clause. Here, Chief Justice Stone's opinion said, the plaintiff disclaimed any contention that "class or racial discrimination" was involved; plaintiff's position was that he had been denied a right conferred by state law and was thereby denied the equal protection secured by the fourteenth amendment. The Court held that there was no denial of equal protection. "An erroneous or mistaken performance of the statutory duty, although a violation of the statute, is not, without more, a denial of the equal protection of the laws." In addition to unequal application of a state statute to those who are entitled to be treated alike it must be shown, also, that "there is. . .an element of intentional or purposeful discrimination. . . .A construction of the equal protection clause which would find a violation of federal right in every departure by state officers from state law is not to be favored."

These cases express an unsound principle if they say that state action giving effect to a classification which subjects some persons to unequal treatment in a meaningful way is not subject to the limitations of the fourteenth amendment solely because specific intent to disadvantage those individuals cannot be shown. Certainly constitutional limitations on governmental action need not be keyed to distinctions between specific and general intent, or intent and negligence, which serve entirely different purposes in determining a private individual's (or governmental official's) civil or criminal liability. A constitutional guarantee of equal treatment at the hands of government should not be rendered ineffective because state administrative officials who make classifications are not malicious but only bumbling. Perhaps a governmental official who has created an unreasonable classification should not be individually liable in damages if he has not been malicious. However that issue is resolved, lack of discriminatory purpose should not insulate a state agency's action from the fourteenth amendment if an unreasonable classification is applied to similarly situated persons. It is important to note here that there were factors present in SNOWDEN, SUNDAY LAKE, and MACKAY which offset the Court's apparent requirement of discriminatory purpose as a prerequisite to violation of the equal protection clause. SNOWDEN was a civil action for damages against the state officials, not an action to require the state agency to refrain from giving effect to the allegedly unreasonable classification. In SUNDAY LAKE and MACKAY the Court's discussions ranged well beyond a determination that no discriminatory purpose had been established, and in effect inquired into the reasonableness of the classifications which the state officials had made by their tax assessments.

Isolation of discriminatory purpose can be useful if the emphasis is shifted to considering what effect the presence — as contrasted with the absence—of such a purpose, appropriately defined, will have on the constitutional determination. If such a purpose is present, the state action may be unconstitutional. The search then, in practical effect, is for the actual basis of classification. The determination Yick Wo, for example, was that the basis of classification actually utilized in granting laundry licenses was race. In this sense, discriminatory purpose is a way of referring to a constitutionally impermissible standard of classification: a standard which, in the circumstances of a particular case, no justification by the state can make into a reasonable classification.

This is a central point in current considerations of the equal protection aspects of de facto school segregation. The distinction drawn in many cases between a school board which seeks to carry out a policy of racial separation by, for example, gerrymandering attendance areas, or selecting school sites, and a board which does not have such a policy is illustrative of this aspect of discriminatory purpose. If it can be established that a school board has used race as a factor in drawing attendance zones, in order to bring about racially separate schools, there would be an arbitrary or unreasonable classification, violative of the equal protection clause. Assignment of children in such a way as to result in segregated schools would be unconstitutional because the board used race as the standard of classification the board had an "invidious discriminatory purpose," if one wishes to state it that way. Similarly, the jury cases and the voting cases have been inquiries into whether race was the factor actually used in making the classification in the specific case. But absence of discriminatory purpose, in the sense of utilization of a basis of classification which, without further inquiry, would be constitutionally impermissible, does not end the constitutional inquiry in the de facto segregation case. Assignment of children to public schools on the basis of geographic zones is state action which, to be valid, must fall within the limitations of the fourteenth amendment. If, for example, a combination of de facto racial residential patterns and school attendance zones results in assignment of Negro children to predominantly or totally Negro schools, allegedly causing inferior educational opportunity, it is necessary to determine whether the assignment policy is violative of the equal protection clause. This is a constitutional issue (however it may be decided) which cannot be evaded by concluding that the school board did not use race as its standard of classification. Merely because race was not the operative factor does not necessarily mean that the state action is constitutional. Indeed as some cases have held, such school assignment policies may quite soundly be held to be unconstitutional in some circumstances and constitutional in others, depending, among other factors, on whether the school board has reasonably available alternative courses of action which would prevent the harm to the Negro children.

There appears to be no compelling reason, then, to conclude that if public school officials create a classification of children which would otherwise be unreasonable under equal protection standards, there will be no constitutional violation unless the classification was adopted with the intent to harm those individuals disadantaged by it or to utilize a standard of classification which has no reasonable relation to the governmental purpose involved. The Court has not required such a showing in order to hold invalid classifications created by statute; no inquiry is made into officials' motives in such cases. Presence of such intent may, in some cases, without more, establish the denial of equal protection. And it may be more feasible to undertake an inquiry into motives in dealing with a classification made by officials administering a statute fair on its face than it would be in dealing with a classification made by legislators. But, in any event, absence of a showing of such discriminatory purpose leaves the problem where it was to begin with—is the classification which the public school officials have in fact utilized, regardless of intent or motive, one which meets the standards of equal protection of the laws?

B. THE CONSTITUTIONAL PERMISSIBILITY OF THE CLASSIFICATION

If a school board's allocation of its resources and administration of its programs result in unequal educational services in schools within the district, the criterion for determining whether there is a violation of the equal protection clause might, on initial analysis, appear to be the familiar standard whether the classification utilized was reasonable in light of the statutory purpose. Equal protection cases commonly state that a classification will not be held invalid if it has a rational basis, or that a classification will not be held arbitrary unless it rests on grounds unrelated to achievement of the governmental objective or there is no reasonably conceivable state of facts which would justify it. This suggests that inequalities in educational services discussed here would not, in general, be violative of the equal protection clause if they

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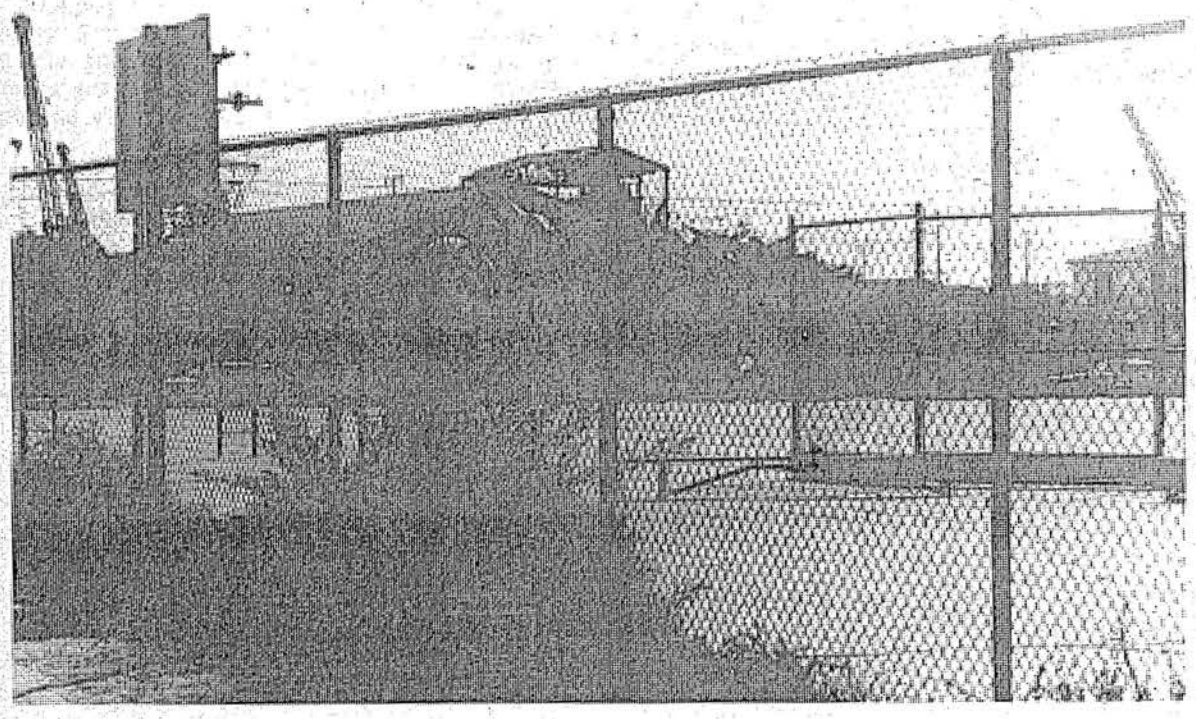
THE BLACK AND

Photos by Calvin Young



BLACK COMMUNITY SCHOOL

(Continued from page 3)

were the product of apparently reasoned judgments arrived at in response to a variety of needs and problems of a specific school system, and not the result of a classification designed to draw distinction between children in schools in advantaged and disadvantaged areas.

But the equal protection issue cannot be resolved this easily. Three recent cases have held violative of equal protection classifications for which there were clearly "rational" bases. In these situations the Court subjected a classification to more than a rational-basis test. Because of the great significance, on any scale of constitutional values, of the interest of children in equal educational opprotunity, it can be persuasively argued that the interpretation of the equal protection clause given effect in these cases should be applied in determining the constitutional validity of the inequalities in educational services discussed in this article.

Griffin v. Illinois and **Douglas v. California** involved similar issues. In **Griffin**, refusal to provide a trial transcript to an indigent defendant for purposes of a criminal appeal was held to have violated both the due process and equal protection clauses by denying the same quality of appellate review to the indigent as was made available to those who could afford a transcript. This policy produced what Justice Frankfurter, concurring, referred to as a "squalid discrimination." But there was a rational basis for this Illinois policy—to expend available funds in the most effective way by providing transcripts to indigents only in more serious cases. In **Douglas** the California policy of appointing counsel for indigent defendants who sought to appeal only when the appellate court concluded from an examination of the record that there was sufficient reason to provide counsel was held to be unconstitutional discrimination against the indigent. Here, as in **Griffin**, the comparative adequacy of the opportunity to appeal depended upon whether the defendant could afford to hire counsel. And, as in **Griffin**, there was a rational basis for the classification—a policy of distinguishing, in the expenditure of public funds to the appointment of counsel, between frivolous and non-frivolous appeals.

The 1965 Supreme Court decision in Carrington v. **Rash**, held violative of the equal protection clause a Texas statute preventing any member of the armed forces who came to Texas during the course of his military duty from voting in an election in the state as long as he remained in the armed forces. The state argued that one purpose was to protect the franchise from infiltration by transients, and that the policy was based on the reasonable assumption that servicemen within the classification would be in the state for only a temporary period. The significance of the Court's holding is highlighted by Mr. Justice Harlan's inquiry, in his dessent, whether this was a "rational classification," and his conclusion that:

> Although it is doubtless true that this rule may operate in some instances contrary to the actual facts, I do not think that the Federal Constitution prvents the State from ignoring that possibility in the overall picture. In my opinion Texas could rationally conclude that such instances would likely be too minimal to justify the administrative expenditure involved in coping with the "special problems" entailed in winnowing out the bona fide permanent residents from among the transient servicemen living off base and sending their children to local schools.
>
> Beyond this, I think a legitimate distinction may be drawn between those who come voluntarily into Texas in connection with private occupations and those ordered into Texas by military authority. Residences established by the latter are subject to the doubt, not present to the same degree with the former, that when the military compulsion ends, so also may the desire to remain in Texas.

But the remainder of the Court held that servicemen were subjected to invidious discrimination violative of the fourteenth amendment, because "only where military personnel are involved has Texas been unwilling to develop more precise tests to determine the bona fides of an individual claiming to have actually made his home in the state long

(Continued on page 5)

THE WHITE OF IT

WHITE COMMUNITY SCHOOL

(Continued from page 4)

enough to vote." "The state did provide an opportunity for other persons, such as students and employees of the United States, to demonstrate to election officials that they were bona fid residents.

Any "reasonably conceivable," "rational" basis for a classification by a school board need not, then, foreclose the possibility that a specific classification is violative of the equal protection clause. The Court has, in these equal protection cases, manifested an approach to review, in the degree of deference given to the state's balancing of interests, more familiarly encountered with first amendment freedoms arising under the fourteenth amendment. This approach in equal protection cases has been referred to by Professor McKay as illustrating that there are "two equal protection clauses." It has been described by Professor Van Alstyne as holding the state rule to deny equal protection "not because it was 'absolutely' arbitrary, (i.e., lacking any rational connection with any legitimate purpose) but frankly because it was 'comparatively' arbitrary in the sense of being harsh and inessential." Analysis of equal protection aspects of unequal educational services offered by a specific school district should proceeds, utilizing the terminology of Mr. Chief Justice Warren in an analogous case involving an equal protection problem in the context of intergovernmental tax immunity, be determining whether the inequalities "can be justified," "weighing in the balance" the interests of the children who are provided the services of lesser quality. This will involve an examination of the justifications for the classification and, where pertinent, an evaluation of the availability of alternative means of acjoevomg the governmental purpose with a less deleterious effect on the children receiving the lower-quality educational services.

What justifications, possibly resulting in constitutionally permissible classifications, would there be for inequalities in educational services provided in diffferent schools within a school district? They would include the following:

(a) With a finite sum of financial resources available, and an obligation to provide the best possible educational services for all children in the district, a school board should have reasonable discretion to determine priorities of expenditures and programs. Hence it may be a reasonable classification to have, for example, some students on double sessions because of population growth and lack of adequate physical facilities in some areas in the district, or some students in less adequate facilities with respect to condition of buildings or availability of cafeterias and the like, while responding to other educational needs within the district.

(b) Another aspect of priorities of expenditures is presented by a consideration of inequalities in offerings of courses in different schools. Where school board policy is to provide courses in response to need, a school with lower overall educational achievement, and relatively fewer high achieving students, would have sparser offerings of advanced courses, honors programs, and the like, in comparision with other schools.

(c) Difficulties in recruiting teachers, and practical accommodation to the wishes of teachers, may be reflected in board policies permitting tenure teachers to select where they wish to teach when openings are available. This may result in having relatively higher proportions of experienced teachers in schools in advantaged areas of the district.

Other differences in the quality of educational services may not be as readily explainable by administrative considerations. This would appear to be so with respect, for example, to significant differences in class sizes, student-teacher ratios, and library resources. These could be inequalities which would appear to reflect "no policy."

Where inequalities are the product of administrative judgements in allocating resources in response to the total needs of the school system, several doctrines developed in equal protection cases would come into play. The cases have said that mathematically exact equality is not required by the fourteenth amendment, and that a state need not deal with an entire problem at once but may attack it piecemeal, responding to the separable aspects of a problem. These cases would suggest that where administrative judgments are based on factors pertinent to achievement of the educational

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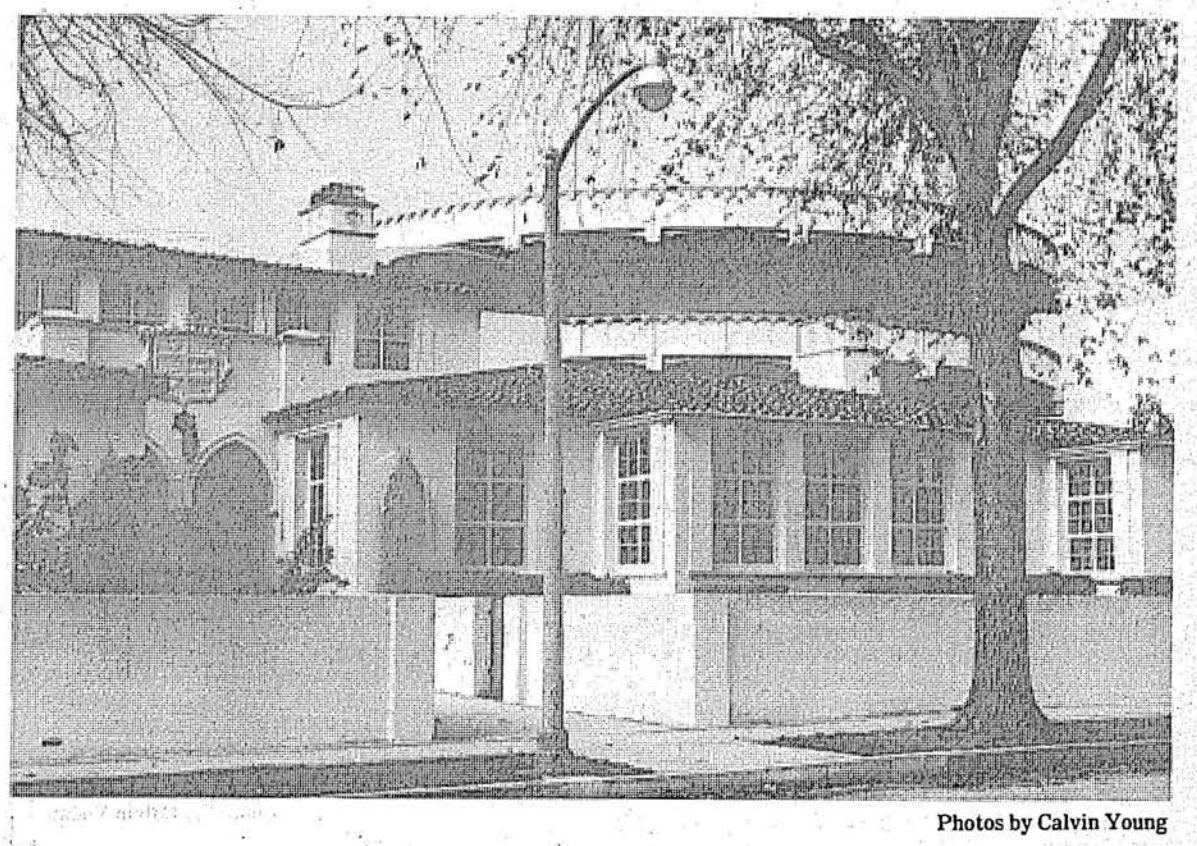
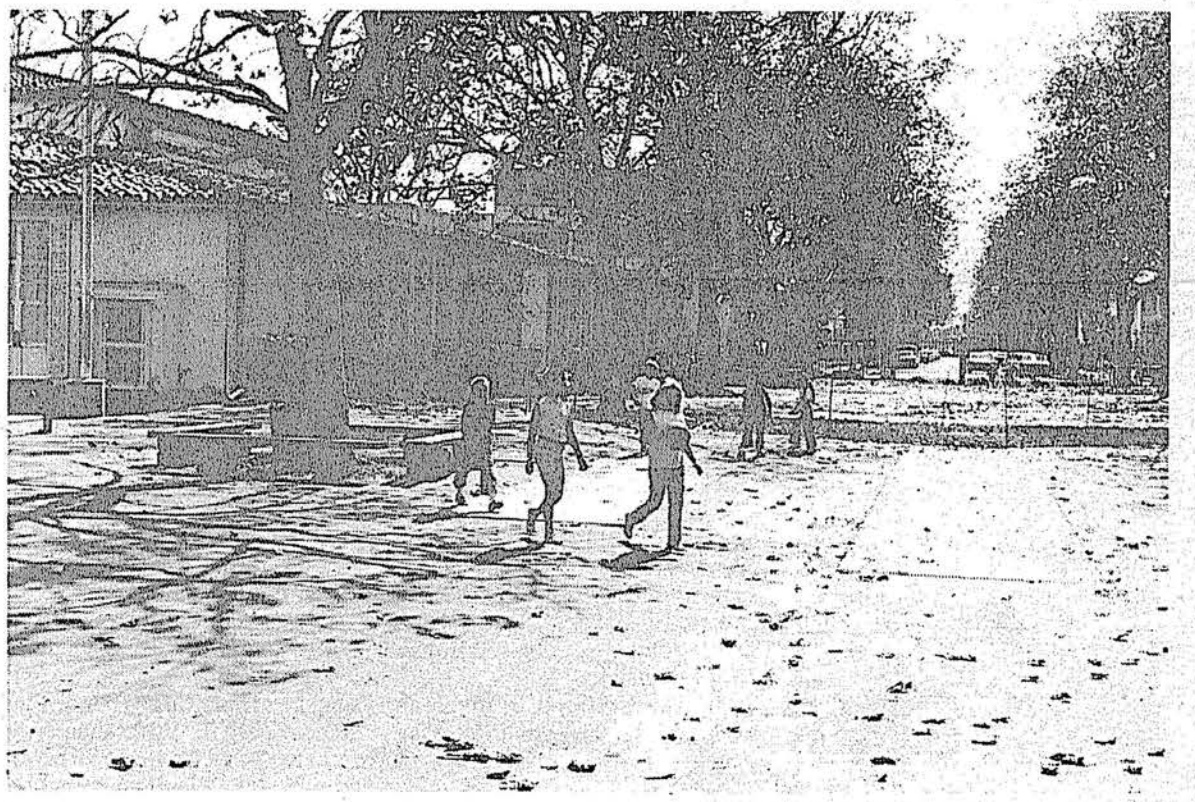
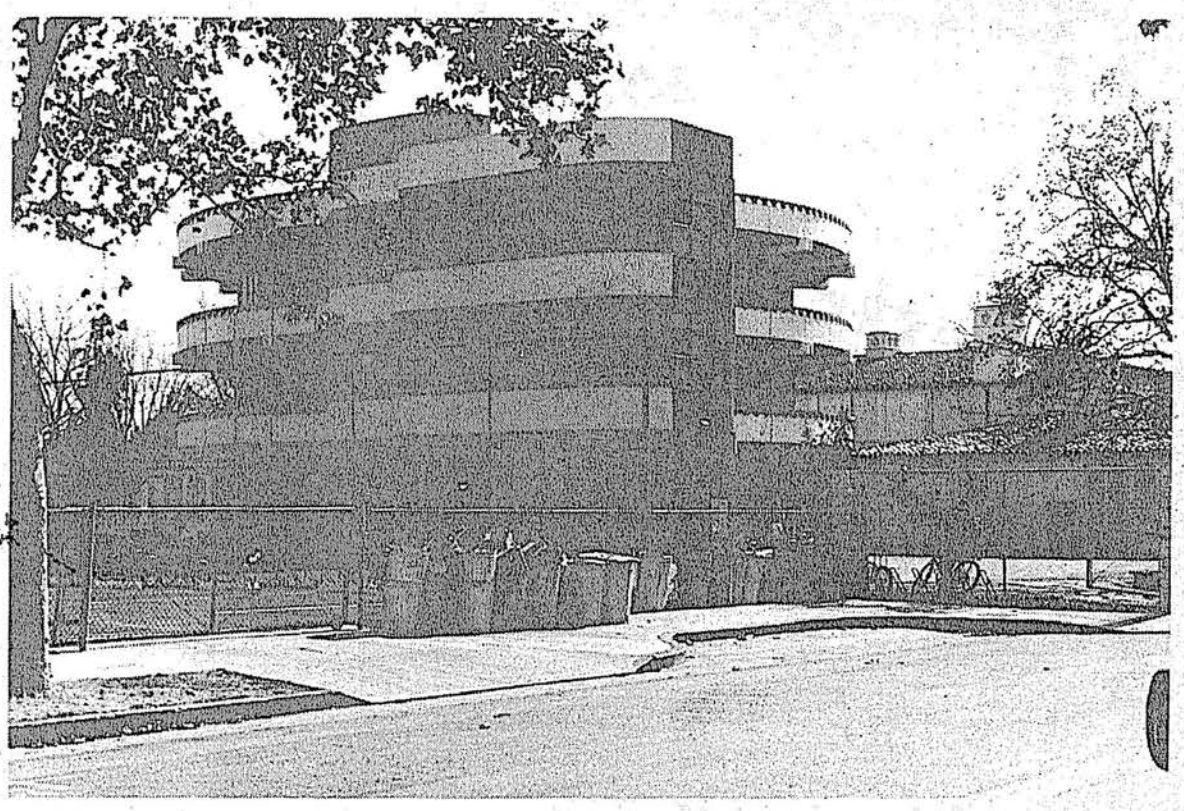


Photos by Calvin Young





STUDENT MANDATE: SOCIAL APATHY OR PARTICIPATION?

by Mary Jo Curwen, S.B.A. Social Committee Chairman

Traditionally, the only school-wide social function has been a spring dance. The dance was always formal until last year when casualness was encouraged: any attire went, a very good rock band played, the bar was open, and plenty of room was available for socializing. Unfortunately, only about 150 people attended. The excuses for not attending varied: $5 per couple was too expensive, the price break for seniors (only $3 per couple because no senior dance was held) was unfair, the dance was scheduled too close to finals, the idea of a dance located in the law building turned some students off...

A few persons have suggested other social functions- -i.e. a picnic, a wine and cheese tasting party, in addition to or instead of a dance might be more in accord with student desires. While I would like to make the social program as relevant as possible, any changes I feel must depend upon: 1) student body desires, 2) cooperativeness of students in planning and putting on events, and 3) funding from the S.B.A. In line with this, I would very much appreciate getting feedback from students regarding what types of activities they desire and would support. Feel free to talk to me in the hall or leave a note for me at the Information Window. I especially would like to hear from any people interested in organizing or assisting with social activities.

While I hope to get a substantial amount of feed-back, if apathy prevails. I will concentrate my efforts on making the annual dance as appealing and swinging as possible. Within budget limitations, changes which I feel might make the dance more successful include: a lower charge, scheduling the dance during the 2nd week-end of the 3rd quarter, getting a name band, and doing a good P.R. job among the students. Unless opinion to the contrary prevails, the casual atmosphere of last year's dance would be continued.

If this prospect doesn't appeal to you, don't wait until the end of the year to bitch, let me hear from you now!

Law Library Broadens Student Services, Keeps Rat Lookout

Should rats, mice, and insects be invited to share the use of the law library with students? Yes ( ); No ( ). They will take advantage of its facilities, whether or not invited, if students are allowed to bring food and drink into the reading rooms, according to Mr. Jerry Beck, newly appointed head of the library's public services division. Mr. Beck has a law degree from UC Davis, and is now attending library school at UCLA--and he feels strongly that the pressures of law school make a library without coffee an undesirable place. If the rule forbidding food and drink were just for general reasons of cleanliness, he said, the rule would be dropped; but the library has in the past had trouble with rodents and other pests infesting it.

The library invites student comments and suggestions about its services and policies, said Mr. Beck. In particular, he is interested in student reaction to the rules on reservation of study rooms. Although they have been reserved by signing up at the library desk, frequent disregard of the old rules suggests that perhaps the rooms should be opened on a first-come, first-served basis.

The library, to increase students use of the services of the reference librarian, this year moved his desk out into the reading room where its more visible. This has resulted in a greater use of the librarian to suggest sources and find books; and the library tours have made students more familiar with what is available.

Mr. Beck offered to make an attempt to cut down on the traditional bane of library users at finals time--the mysterious disappearance of important books when they're needed for papers and take-home exams. Of course, if the books are simply stolen without a card, there is little the library staff can do--but it does recognize the problem.

He also said that Law Review and Moot Court members create some problems by misshelving books that they have been using--although some students doubt that this could be true, since they claim they have never seen a Law Review or Moot Court member reshelve books at all.

One source of student complaints--little help from some of the part-time staff of the circulation department--is due to the high turnover of the part-time staff and the necessity of hiring people without law or library training.

Mrs. Mayme Clayton of the library staff has been helping many poverty law programs select libraries, including student legal assistance, the Inmate Legal Assistance Group, the Pico Union neighborhood association, the Watts Urban Workshop, and CPC.

LEGAL ETHICS

By Paul Bell

Gems from the UCLA Law Library, or, Readings in Traditional Legal Ethics

The reading selected to inform, amuse, and instruct us today, boys and girls, is from an account of the life of Sir John Popham, Her Majesty's Chief Justice, who lived from 1953 to 1602.

From: John Lord Campbell's **The Lives of the Chief Justices of England.** New York: James Cockcroft & Co.; 1874. (Call B C152Li 1873). Vol. I, pp. 215 **et. seq.**

"Here (in college) he was very studious and well-behaved, and he laid in a good stock of classical learning and of dogmatic divinity. But when he removed himself to the Middle Temple, that he might qualify himself for the profession of the law he got into bad company, and utterly neglected his judicial studies. He preferred theatres, gaming-houses, and other haunts of dissipation, to 'readings' and 'moots;'...

"It seems to stand on undoubted testimony, that at this period of his life, besides being given to drinking and gaming, --either to supply his profligate expenditure, or to show his spirit, he frequently sallied forth at night from a hostel in Southwark, with a band of desperate characters, and that, planting themselves in ambush on Shooter's Hill, or taking other positions favorable for attack or escape, they stopped travelers, and took from them not only their money, but any valuable commodities which they carried with them. . .The extraordinary and almost incredible circumstance is, that Popham is supposed to have continued in these courses after he had been called to the bar..."

But concern for his wife and child reformed Sir John, and he became diligent in the service of the Queen, at the same time amassing a personal fortune. Having served as Solicitor General, then Attorney General, he was finally elevated to the post of Chief Justice, where "he was much commended in his own time for the number of thieves and robbers he convicted and executed..."

"He was notorious as a 'hanging judge.' Not only was he keen to convict in cases prosecuted by the Government, but in ordinary larcenies, and, above all, in highway robberies, there was little chance of an acquittal before him."

It is reassuring to note that there continue to be men elevated to the bar and bench of this nation, men who adhere to these traditional standards of legal ethics, and who treat those before them as they themselves would wish to be treated.

Law School Keeps Quarter System

Continued from Page 1

a memo in opposition to the change-over.

When the matter was brought to a vote on Nov. 10, SBA President Myron Anderson presented the faculty with the results of the new student referendum. The result was a 12-12 tie, broken by Dean Murray Schwartz's vote for retaining the present system.

Dean Schwartz had previously been felt to advocate the switch to the semester system. It is not known whether he changed his view or simply felt that it would have been administratively impossible to effect the change with a divided faculty and the overwhelmingly student opposition reflected in the referendum.

Dean Bauman expressed another possible reason for the vote when he suggested many faculty members wanted to see the outcome of the proposed changes on the bar exam before changing the curriculum.

Brown Talks

Continued from Page 1

nounced his disdain for Senator Murphy's amendment to give the governor of each state an item veto on O.E.O. projects. The measure he said, "is not in line with the needs of the people."

When asked whether he supported the members of America's middle class in their effort to obtain economic stability, he staed that he was tired of the attempts by the rich to pit the middle class against the poor. We must help both, he stated, by wisely applying the resources we now have.

EMERGING 14TH AMENDMENT ISSUE

(Continued from page 5)

objectives of the school system the classifications of students which result would be permissible under the equal protection clause. It might further be argued that if factors ouside the control of the school board, such as rates of population growth or supply and demand of teachers, are contributing causes to inequalities in educational services, the school board need not mold its policies so as to overcome the effect of these factors (as it argued with respect to de facto segregation and the effect of neighborhood residential patterns).

However, analysis must be carried further, particularly because it is education of children which is involved—"perhaps the most important function of state and local governments." Rational relationship to the governmental purpose may be insufficient to meet the contention of violation of the equal protection clause, as **Griffin, Douglas,** and **Carrington** have shown.

Several themes must be explored. It may be argued, for example, that advanced courses and other enrichments in curriculum may justifiably be allocated among schools in response to the need for such programs, even though schools with relatively fewer high achieving students will have less such offerings. There may be a problem with such an argument under a principle stated in several cases, among them **McCabe v. Atchison, Topeka & Santa Fe Ry**. There the Court held invalid a state statute which permitted railraods (during the regime of separate-but-equal) to provide sleeping and dining car facilities only for whites. One justification for the legislative policy was that Negroes, as a group, made little use of such facilities. But, the Court said, the limited demand by the group as a whole did not justify the adverse effect on the interests of individual Negroes:

> This argument with respect to the volume of traffic seems to us to be without merit. It makes the constitutional right depend upon the number of persons who may be discriminated against, whereas the essence of the constitutional right is that it is a personal one. Whether or not particular facilities shall be provided may doubtless be conditioned upon there being a reasonable demand therefor; but, if facilities are provided, substantial equality of treatment of persons traveling under like conditions cannot be refused: It is the individual who is entitled to the equal protection of the laws, and if he is denied by a common carrier, acting in the matter under the authority of a state law, a facility or convenience in the course of his journey which under substantially the same circumstances is furnished to another traveler, he may properly complain that his constitutional privilege has been invaded.

This principle was applied in education cases under the separate-but-equal doctrine. Hence inequalities in academic offerings in different schools may, perhaps, not be constitutionally justified on the ground that there are fewer students in some schools who would be interested in, or have need of, such courses. Those students, though fewer in number as a group, would have individual claims to equality of educational opportunity, and financial and administrative considerations may not be adequate justification for the denial of such equality.

Other cases suggest a factor of critical significance in judging the equal protection aspects of differences in the quality of educational services within a school district—the availability of alternatives to the school board which could permit achievement of the governmental purpose with less adverse impact on the educational opportunity of some children. This is a generally applicable principle—the "least onerous alternative"—in cases involving regulations of speech and related interests. It was applied, for example, in **Shelton v. Tucker**, involving a requirement that public school teachers disclose to the school board all organizations of which they were members. This was too broad a requirement, the Court said, to achieve the governmental purpose of acquisition of data pertinent to the teachers' fitness:

> In a series of decisions this Court has held that, even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means of achieving the same basic purpose.

This principle has recently been applied in **Carrington v. Rash**, in which Texas sought to bar some members of the armed forces from voting in state elections. It was argued that Texas could rationally conclude that the instances of servicemen who could establish bona fide residence would be too infrequent to justify the administrative expenditure involved in verifying individual cases. But the Court held that Texas could not deny to servicemen the opportunity to demonstrate that they had become residents of the state. " 'The right to choose,' . . . that this Court has been so zealous to protect, means, at the least, that States may not casually deprive a class of individuals of the vote because of some remote administrative benefit to the State." Texas could have devised procedures to make individual determinations of servicemen's residences, as it did with other categories of individuals who might be only temporarily in the state. **Carrington** held that by virtue of the equal protection clause Texas could not refuse to do so. In **Griffin** and **Douglas** an alternative was also available—the expenditure of public funds for transcripts and counsel, either by decreasing expenditures elsewhere or by acquiring additional revenues.

Should the availability of alternatives be considered in determining whether a school district has denied equal protection to children who receive educational services of lesser quality than other children under the circumstances discussed in this article? Is the right to equal educational opportunity to be equated, for this purpose, to the interests of the teachers in speech and assembly in **Shelton**, to the interests of the servicemen in voting in **Carrington**, and to the interests of indigent defendants in the circumstances of **Griffin** and **Douglas**? Several courts have applied the least onerous alternative principle in public school education cases, a result which appears to be eminently sound in view of the Court's statements in **Brown v. Board of Educ.** about the fundamental importance of public education and the right to equal educational opportunity. In de facto segregation cases a few courts have considered the interests of Negro students in attending non-segregated schools to "outweigh" the choice of school administrators to make **no** efforts to alleviate the effects of de facto segregation. In these cases there were apparently either reasonable courses of action available to the school board which would have lessened the adverse impact on the Negro children, or there was a failure conclusively to demonstrate that reasonable effort could not effect a significant mitigation of the adverse impact on the children. In **Matter of Skipwith** the court, finding a violation of equal protection in the lower ratio of licensed teachers in some schools, pointed out that:

> No evidence was submitted to show that the Board had aopted any procedure under which correction of the discriminatory imbalance between regularly licensed and substitute teachers could be reasonably anticipated . . . (T)he Board of Education . . . has done substantially nothing to rectify a situation it should never have allowed to develop, for which it is legally responsible, and with which it has had ample time to come to grips . . . .

What should be the application of the principle of the least onerous alternative in the cases of unequal educational opportunity discussed here? Some problems would require consideration of relatively specific alternatives. Consider, for example, the recent incidence of double sessions in one large city school system, where 26,000 students in elementary schools were at one point on double sessions (more than seventy-five per cent of them in schools with predominantly Negro or Mexican-American enrollment) while at the same time there were unused classrooms in elementary schools throughout the city sufficient to provide facilities for full-day sessions for 10,000 children. Is there not in such a situation a denial of equal educational opportunity to at least that portion of the 26,000 children on double sessions (not exceeding 10,000) whose parents, if given the opportunity, would choose to have them attend full-day sessions even though at a school outside their immediate neighborhood? Has the school board made a constitutionally reasonable choice until it has exhausted all reasonable means of making use of the empty classrooms, such as redrawing attendance zones or providing transportation, for as many children on double sessions as possible? If a school board maintains a policy of teacher assignment which, because of the individual choice of teachers, results in a lower ratio of permanent teachers in some schools (assuming this can be demonstrated to result in a lower quality of educational services in such schools), has the board made a constitutionally permissible choice if it has not exhausted all reasonably possible means of preventing the inequality, such as compulsory assignment of teachers, payment of bonuses, or provision of special services and facilities and lowering of class size and teaching loads so as, among other things, to make certain schools more attractive to teachers? If a school board maintains a policy that a cafeteria will be provided in an elementary school only if a minimum number of meals are served daily—a school-by-school self-support policy—so that students in some schools are denied cafeteria facilities because of the size of their school or the small demand for meals in their school, has the board made a constitutionally reasonable choice if it has not exhausted all reasonable means of making meals available at all schools, such as distribution from central facilities or broadening the self-support base to balance high-consumption and low-consumption schools against each other? If a school board provides advanced courses and other curricular enrichments in response to total need within individual schools, has the board made a constitutionally reasonable choice if it has not exhausted all reasonable means of making the same range of special courses available to all similarly qualified children, whatever schools they attend, by, for example, providing regional facilities to serve students in several schools or by providing transportation to the closest available facilities?

The least onerous alternative principle can have a broader application to unequal educational services within a school district. Many of the inequalities which may exist in a specific school system would be the result of administrative decisions as to the allocation of the financial resources available to the district. In this type of problem it is significant to note that an alternative would always be present—to expend the district's resources in a way which will prevent the inequality, by reducing, if necessary, expenditures made for other purposes. Thus double sessions could be avoided by channeling resources to deal with problems of overcrowding for all students (not for only 10,000 as in the example discussed above) instead of utilizing the resources for some other purpose. Lack of equal availability of curricular offerings could be prevented by providing the necessary courses and programs for all students even though doing so in the areas of limited demand may entail additional expense. **Griffin** and **Douglas** are examples of giving effect to the alternative of a different allocation of financial resources; both Illinois and California were required by the equal protection clause to expend funds on transcripts and counsel for indigent defendants even though the states had seemingly rational reasons for not doing so.

The questions raised concerning the constitutionality of a school board's decisions as how best to allocate available resources cannot be answered simply by determining that there was a rational basis for the choice in any particular situation. The Court's recent equal protection decisions provide a firm basis for argument that inequalities in educational services should be tested by an analogous principle developed in light of the facts that opportunity for education is involved, that education is compulsory, that the in-fact classification is based upon the socio-economic status of children, and that in almost all cases there would be reasonably available alternatives to a school board's allocation of its resources which created a significant inequality. The constitutional principle would be this:

Public school boards must provide equal educational opportunity for all students. Neither administrative convenience, desire to expend funds for other purposes, limited demand, higher cost, nor similar considerations would necessarily make consequent inequalities in educational services the product of constitutionally permissible classifications. In each case, assuming a "rational basis" for a specific inequality were shown, the controlling issue would be whether the school board can demonstrate that there are not other "rationally based" means of carrying out its programs which would have less adverse impact on the children who are provided the lower quality educational services.

Given the Court's recent decisions, the equal protection clause as applied in the area of public education can mean no less.

PDP Picnics At Yorks'

By Westbrook Winchell

Prof. and Mrs. York were the perfect hosts, as always, for the Picnic which closed the rush activities of dear old PDP.

The picnic was held Nov. 2 at the York's Topanga Canyon home. Magister Henry Espinoza and Exchequer Art Boehm tapped the inevitable keg and checked it every few minutes to be sure it hadn't run dry. Their efforts were heroic since they had to ward off a few friendly elbows thrown at them by such stalwart tipplers as Tom Scheerer, Win Wilson and old alum Harry Arnold, all of whom felt the two officers were overly concientious in their attendence at the tap.

Historian Jim Birmingham was also seen pumping the barrel, but obviously this was only to be in position to record the happenings, since it is well known that the ascetic Mr. Birmingham doesn't partake of such worldly goods.

However, while Birmingham may occassionally carry around a half full cup so as not to appear aloof, the real teetotaler of the officer corps is Big Steve Farr. Steve took over duties of master chef and supervised the cooking of the hot dogs, doling them out to enthusiastic actives, potential pledges, and the very attractive sorority lovelies, who easily competed with the beer and the beautiful grounds of the York home as top attraction at the all-day affair.

None of the participants braved the elements to the extent of using the Yorks' pool, but it was pretty much "reservations only" at the ping pong table and pool table.

Invitations have already been extended to many of the aspiring pledges. But anyone still interested in pledging should contact one of the officers or active members for information.

Law School IM Teams Head for Playoffs

TWO WINNERS: The Law School was well-represented in the Intramural Football League by two teams which lost a total of one game, and finished first and second in their league. The undefeated Blue Bombers (shown above left) are the "official" Law School team, while J.D. is the "unofficial" team who suffered their only loss this season at the hands of the Bombers. In the photo above, right, Bombers Dennis Mullen (left) and Ernie Wideman (right) push opposition ball-carrier out of bounds, while Roger King (far left) comes up to cover.

COSTLY MISTAKE: In game earlier this season, Vince quarterback fumbled the snap on his own 1-yardline (above left) and Bomber linebacker Roger King (center) pounced on the loose ball. Two plays later the Bombers tallied in the game which saw the only touchdown scored against the Bombers during the season — and its came after an official's whistle had blown dead an illegal play. In photo above right, Steve Davis strains to reach pass thrown by J.D. quarterback Rich Gates in hard-fought victory over La Raza.

Photos by Jon Kotler

Sportlite

'Shines' on Big Game

by Jon Kotler
Sports Editor

As predicted in this column on September 24, (after the Bruins had completed but 2 of their 10 scheduled games, and USC only 1 of their slate of 10), Saturday's City Championship will also carry with it the right to represent the West in the 1970 Rose Bowl.

This in itself is not unusual in an SC-UCLA game, but what is unusual is that the two teams seem, on paper, at least, to be as evenly matched as could be imagined, right down to their 8-0-1 records.

As in any Big Game, it will more than likely be the odd break that decides matters. Only two of the past 14 games between the arch-rivals have been decided by more than two touchdowns.

Looking at the teams themselves, this observer feels that the offensive-minded Bruins would have to be favored after literally destroying all their opponents since the opening rout of Oregon State with a positively awesome display of firepower. But this is not to discount the Trojans, who traditionally have played their best against tough teams and when their backs are to the wall.

Upon analysis, it seems that the squads should be rated evenly as to the ability of their offensive lines, linebackers, and defensive secondary. The Bruins however, must rate a slight edge on the quality (and health) of their receivers and the Trojans get the nod in the running back department, mostly because of the strength and durability of the latest Trojan Horse, Clarence Davis. The position of quarterback is no contest at all, since Dennis Dummit is winding up a season in which he has broken every one-year UCLA passing record while his counterpart at USC, Jimmy Jones, is finishing his sophomore year with a passing average well under 50% while having shown little of the running skills which he was supposed to have possessed. Finally, the kicking game of the two teams is pegged a toss-up, and SC gets a slightly higher rating in the defensive line, but we reiterate, just slightly higher.

Prognosis: If the Bruins can get a couple of early scores they may blow the Trojans out of the Coliseum, as they did Oregon State, Cal and Washington, and make a laugher out of it. But if the contest is even going into the fourth quarter, then don't bet against SC, because the Trojans always seem to get better and stronger the longer a game goes on.

***

ET CETERAS:

Stanford University President Kenneth Pitzer announced on Tuesday that henceforth, the Indians would refuse to schedule or play Brigham Young University in athletic contests of any kind. Addocring to Pitzer, "It is the policy of Stanford University not to schedule events with institutions which practice discrimination on the basis of race or national origin . . ."

But what President Pitzer did not explain was why Stanford had in the recent past (1966), and will again in the near future, defend its "enlightened liberalism" on the gridiron against New Orleans' lily-white segregationist Tulane University.

We are not questioning Stanford's right to play Tulane or Brigham Young, for that matter. What we are concerned about, however, is the phony piety with which Stanford's decision was presented to the general public.

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