Consumers Prevail over Telemarketers in Battle over Do-Not-Call List

By Rosalnda Baisinger

The Federal Communications Commission’s do-not-call list was an unmitigated hit. By the Aug. 30 deadline, 40 million Americans had signed up. And as Fortune Magazine’s Geoffrey Colvin pointed out in a Sept. 30 article, it is astounding when 40 million Americans do something, especially in the absence of an expensive advertising blitz. Nobody, even the judge who found the registry unconstitutional last month, wants telemarketers to call them at home.

On Sept. 25, U.S. District Judge Nottingham granted the request from various telemarketing companies for an injunction against enforcing the do-not-call list. Nottingham, who according to Slate magazine is himself on the do-not-call list, said that the exemption for charitable organizations was a preference for one type of speech over another and therefore violated the First Amendment.

Since then, the registry has been in and out of court several times. The latest ruling from the U.S. Appeals Court for the 10th Circuit granted the FCC’s request for a stay of the injunction, which means that the FCC can enforce the do-not-call list against potentially abusive or harassing calls.

The do-not-call list only applies to telemarketers who are calling to sell you something, not people who are calling to survey you, ask you about your political views, or even ask you for money. So the list is not an unmitigated protection of privacy against telemarketers; rather, it only keeps commercial telemarketers at bay.

Distinguishing between commercial and noncommercial speech is nothing new. In 1980, holding that commercial speech deserved less protection than noncommercial speech, the Supreme Court articulated a lower standard for commercial speech in Central Hudson Gas & Elec. Co. v. Pub. Serv. Comm’n of N.Y. Basically, the government can limit commercial speech when (1) the government asserts a substantial interest to be achieved by the restrictions; (2) the restriction directly advances that governmental interest; and (3) the restriction is narrowly tailored to meet that interest.

The Argument for Protecting the Public’s Privacy

The government’s argument here is simple. It meets the substantial interest prong of the test because it has found that telemarketers who want to sell something are more likely to engage in abusive practices like fraud and harassment and because personal privacy in the home has long been recognized as a substantial interest. In Rowan v. U.S. Post Office Dep’t, which upheld a law letting consumers instruct their post offices not to deliver mail from a particular sender, the Supreme Court recognized a right “to be let alone.” The public has the right to put a sign on its door saying “no solicitors.” The government argues that the do-not-call list is comparable.

Law Professor Dorothy Glancy, who teaches intellectual property and privacy law, said that telephone calls are more invasive than unwanted e-mail or postal mail because the phone call “interjects itself into your private mental processes.”

“The controversy shows that we are shifting to a realization that uninvited telecommunication is equivalent to showing up at someone’s brick-and-mortar house,” said James Wagstaffe, a partner at Kerr & Wagstaffe specializing in First Amendment and intellectual property law.

On the other hand, home telephones have become completely obsolete for some people. Law student Eric Mercer said that the registry does not affect

Continued on pg. 7

College Football Star Sues to Enter NFL Draft

By Konstantine Demiris

Star running back Maurice Clarett has filed an antitrust lawsuit against the National Football League over a rule that is keeping him out of the 2004 NFL draft because of his high school graduation date.

At issue is a regulation that bars any person from joining the NFL before he has been out of high school for three years or before he has completed three college seasons. What this means for Clarett, who will soon turn 20, is that he would not be able to play in the NFL under its current rules until 2005 because he graduated from high school in Dec. 2001. The suit, filed in Manhattan federal court, seeks an injunction that would allow him to be eligible for a supplemental draft to take place within 10 days of the order or to be eligible for the 2004 NFL draft.

What some find most intriguing about the lawsuit is the motivating reason why Clarett has decided to pursue the matter against the NFL. Prior to the start of the 2003 college football season, the football player was suspended from the Ohio State University football team, after he was accused of misleading investigators and breaking National Collegiate Athletic Association bylaws on benefits for athletes.

Few can dispute Clarett’s impressive college football statistics while at Ohio State. As a 19-year-old freshman, the star running back led his team to the national championship. He rushed for more than 1,200 yards during the season, while missing three games due to injury. Generally, a college player who rushes for 1,000 yards during a full season is considered elite. Most NFL scouts believed that if Clarett was to enter the draft immediately following his freshman season, he would easily be a first-round draft pick.

Two law professors, Stephen Ross, professor of law at the University of Illinois and author of Principles of Antitrust Law, and Gary Roberts, director of the sports law program at Tulane Law School, stated that an injunction hearing could take place depending upon the wishes of the judge and the court schedule. In Clarett’s case, the process could take place within months and would be expected to be heard long before April 2004, when the NFL draft takes place. They added that because of the nature of the case, most preliminary injunctions like this one, would have little discovery process, and it is unlikely that there will be any depositions to take up additional time.

The NFL is the only major professional sport league that restricts the drafting of players to such an extent. Clarett would be eligible for drafts in Major League Baseball, the National Basketball Association and the National Hockey League. Experts defend the rule by arguing that prohibiting players from joining the league for three seasons ensures that they are mature enough for the professional game.

Continued on pg. 5

Interview with Dean Polden.........................................................2
Student Spotlight........................................................................8
Columns...........................................................................................9
Editorials..........................................................................................11
A Conversation with Dean Polden, Part 2

By Kathleen Schinkel

Staff Writer

In Part I, Dean Polden talked about his move to California, what he is learning about the law school, and his vision for the students, faculty, and programs.

KS: You recently got back from El Salvador. How was your trip?

DP: Pretty powerful. President Locatelli, and about 13 or 14 deans, vice presidents and other University administrators went down to meet with the undergraduate students who are in an immersion study program in El Salvador for 15 weeks.

Did you all fly on the same plane?

No, but we joked about that. (Smiling) We wondered whether or not the faculty wanted us all on the same plane. We hoped we knew the answer. We took several flights out of different cities, some out of Miami, etc. I flew out of Houston. We did risk management. When we arrived, however, we had very little down time. Our days ran from 7:30 a.m. to 9:00 at night. It was remarkable. I had only 45 minutes to shop for my family.

Did you talk with the students?

Yes. They are involved in an extremely intense experience in which they worked two days a week in the community in addition to taking courses at the Jesuit university in the capital. It was, from what I could tell, a very meaningful experience for the 30 or so undergraduate students, and it led me to think about providing a similar experience for our law students. I thing it could be a very meaningful experience for our law students, and I believe we could find a programmatic link. It would be a wonderful opportunity for law students to get involved; to see law in action (or not in action). I know that Professor [Cynthia] Mertens has taken a group of students there in the recent past and is taking another group in January. It should be a very powerful experience for them.

Were you shocked by the poverty?

The poverty was unimaginable. We went to several places that could only be characterized as “third world.” Children were malnourished – not unloved but malnourished. The real issue is that four-fifths of the people in the world live like those people. Only one-fifth live like we do. We had an opportunity to meet with the leadership of the major parties and coalitions of parties, including leaders who were farmers before the civil war. I met a man, who who had lost five children during the civil war, and his dream is to “nationalize the government.” As long as he has known, there hasn’t been a

Continued on pg. 5

Fellowships Help Students Take On Public Interest Summer Jobs

By Yvette Garfield

Salary discrepancies between corporate and public interest jobs often deter law students from entering the field of public interest law. Justice John Paul Stevens Fellowship, offered through the School of Law, strives to bridge the financial gap between the two areas of law by allowing students the opportunity to follow their passions. Each year two students are granted $5000 to pursue summer work in public interest and social justice law.

In honor of U.S. Supreme Court Justice John Paul Stevens, the Stevens Fellowship is awarded to students who demonstrate a strong commitment to public interest. Skip Paul, who created the fellowship, graduated from the Santa Clara University School of Law in 1975. Paul served as a law clerk to Justice Stevens, first at the 7th U.S. Circuit Court of Appeals and then at the U.S. Supreme Court.

To honor Justice Stevens’ 28 years of service on the Supreme Court, Paul created the fellowship to enable future lawyers to pursue their legal interests free of pecuniary considerations. This annual fellowship is available to students who have shown a strong desire to work in public interest law and who are seriously considering a career in the field.

Previous students have spent their summers working for a wide array of non-profit organizations, such as Children’s Defense Fund, California Rural Legal Assistance, Fresh Lifelines for Youth, International Criminal
Iranian Woman Lawyer Wins Nobel Peace Prize

By Mia Giacomazzi
Associate Editor

Selected from a large list of contenders, including Pope John Paul II, Shirin Ebadi was recently named the winner of the 2003 Nobel Prize for Peace. This honor makes her the first Muslim woman, as well as the first citizen of Iran, to become a Nobel laureate.

“We hope the prize will be an inspiration for all those who struggle for human rights and democracy in her country, in the Muslim world and in all countries where the fight for human rights needs inspiration and support,” wrote the five-member committee who made the selection on Oct. 10.

“This is not just a prize for me, this is a prize for all Iranian dissidents. This prize is for all Iranian women, Iranian students, and the whole movement for Human Rights and Democracy,” said Ebadi after hearing the announcement.

A devout Muslim, Ebadi advocates that democracy and Islam are compatible. She has followed her work against a great deal of opposition. “She has stood up as a sound professional, a courageous person, and has never heeded the threats to her own safety,” reads the Nobel committee citation. She has defended dissidents and reformers in the past 24 years of Islamic theocracy in cases that no one else would accept. She has also resisted life threats, imprisonments and even official refusal to renew her bar license.

Faced with such adversity, she continues to have a positive belief that her work with human rights is completely consistent with the Islamic faith. “This prize gives me the energy to continue my fight. It is a great honor to receive this prize. It’s not because you are a Muslim that you can’t respect human rights, so all true Muslims should be really happy with the award.”

Not everyone within Iran agreed with this opinion. Among the population, she has been celebrated as a hero. Over 10,000 supporters, mostly women, gathered at the airport to welcome her home from Paris. Many were chanting political slogans urging for reform and the release of political prisoners. Some supporters are calling for her to run for president, although Ebadi has chosen to stay out of politics.

The criminal trial of Frank Quattrone has resulted in a mistrial being declared by Judge Richard Owen of the U.S. District Court of Lower Manhattan. After six days of deliberation and one excused juror due to a family emergency, the 11-member jury was split with eight in favor of conviction and three for acquittal.

Considered to be perhaps the single biggest player behind the internal public offering explosion of the late 1990s, Quattrone was charged with two counts of federal obstruction of justice and one count of witness-tampering. The charges stemmed from an e-mail he sent, encouraging employees in his group to purge unnecessary documents in accordance with the company document retention policy. At the same time, Quattrone’s employer, Credit Suisse First Boston, was under investigation by both the Securities and Exchange Commission and a grand jury, regarding its allocation of IPO stock during the dotcom boom.

On Dec. 5, 2000, Quattrone received a phone call from CSFB attorney David Brodsky, who alerted the banker to a pending grand jury investigation of “extreme concern” to the company, relating to its disbursement of IPO shares. Several hours after that conversation, Quattrone sent out the contentious e-mail to the Palo Alto-based technology group that he managed.

Claiming that neither he, nor his group, had reason to be concerned with the investigations, since they were not involved with CSFB’s IPO allocation procedures, Quattrone denied having the requisite criminal intent when he sent the e-mail. Additionally, he contended that he was “simplyseconding” an earlier message sent by Richard Char, another member of the technology group, who reminded people to take advantage of December downtime by “cleaning out those files.”

The prosecution argued that Quattrone had knowledge of the investigations and was attempting to destroy incriminating documents through the use of a facially innocuous e-mail. As explained by Assistant U.S. Attorney David Anders during his closing arguments, the key issues in the case were whether or not Quattrone acted knowingly and “corruptly obstructed or endeavored to obstruct” the dual investigations. These legal elements led to some confusion with the jurors, as they suspended deliberations and sought clarification from Judge Owen by asking the difference between “negligence” and “criminal intent.” Owen replied that negligence is “failure to use reasonable care under the circumstances” and that criminal intent “should be equated with corrupt intent.”

To be found guilty on either of the two obstruction charges, Judge Owen stated that the jury must find that Quattrone “knew or had notice of” the investigations. For the witness-tampering charge, the legal threshold is lower, for the government need only prove that Quattrone tried to use employees to destroy or conceal documents possibly needed in an investigation. However, for all three charges, the jury must still find that Quattrone acted “corruptly.” And it was this issue upon which Quattrone’s lawyer, Jon Keker, focused in his closing arguments, attempting to persuade the jury that it is an “all or nothing” case which must turn on Quattrone’s motive.

Initially, the case went well for Quattrone, since he claimed that his knowledge of the investigations’ scope was very limited, and he believed his technology group would be unaffected. Coupled with the mild language of the
Since the mid-1990s, phishing has been a common occurrence on the Internet, and thefts involving financial information have occurred across the country. Today, millions of dollars are at stake, yet it is not clear how many people have been affected or how much money has been lost. While this type of crime is not new, it has become even more prevalent in recent years.

One of the most common methods of phishing is the use of a webpage that resembles a legitimate one, but is actually designed to phish for personal information. This type of scheme is called "phishing," and it can be very difficult to detect without careful inspection.

"Phishing," as it has come to be known, is on the rise. Not just in terms of the number of attacks on consumers, but in terms of the size of organizations that have become targets. In recent months, America Online, Citigroup, Best Buy, eBay, and the FBI have been added to the growing list of organizations whose customers have been "phished."

"What is phishing?" you may be tempted to ask. Despite the similarity in moniker, phishing has nothing to do with the jam-band quartet from Vermont. The word can be traced back to the mid-1990s, first popping up on Internet newsgroup alt.2600, a popular forum for aspiring computer hackers, according to wordpsy.com. The practice of phishing is relatively simple, yet it can yield very effective results.

The basic scheme involves a simple webpage (though the more elaborate the page, the greater the likelihood of success) and a flood of e-mail. The "phisherman," if we may refer to one who engages in the practice as such, first constructs a phantom webpage that looks like the official website of the target company, often incorporating images directly from it, as well as links to other official webpages. Next, the "phisherman" sends out several hundred and several thousand e-mails, or lures, if we continue borrowing fishing analogies, that claim to be from the target company. These e-mails request customers of the legitimate company to visit the recently built website. The latter attempt to ask. Despite the similarity in moniker, phishing has nothing to do with the jam-band quartet from Vermont. The word can be traced back to the mid-1990s, first popping up on Internet newsgroup alt.2600, a popular forum for aspiring computer hackers, according to wordpsy.com. The practice of phishing is relatively simple, yet it can yield very effective results.

The FTC, which brought suit against the youth, charged him with unfair competition and fraudulent access to financial information. More specifically, under unfair competition, the Commission claimed that the youth had engaged in "deceptive practices in or affecting commerce," in violation of section 5(a) of the FTC Act. Under fraudulent access to financial information, it alleged that the youth had obtained "customer information of a financial institution... by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution," in violation of Section 521(a)(2) of the GLB Act.

In exchange for a reduction in the extent of relief sought by the FTC, the defendant agreed to terms specifying his cooperation in regards to identification and location of individuals involved in the scheme he was involved in or others like it that were known to him. Among other considerations, the court lowered the monetary relief for consumer redress from $7,932.83 to $1,400, provided the defendant would surrender his laptop, valued at $2,100.

The FTC's selection of sections 5(a) and 13(b) (the section that provides for remedies of violations of 5(a)) of the FTC Act were presumably based in large part on its successful application of those statutes in analogous cases of fraudulent telemarketing. The reliance on Title V of the Gramm-Leach-Bliley Act, which provided the partial basis for two of the

Continued on pg. 5

Phishing Hooks Unwary Consumers

By Tobin Dietrich
Staff Writer

"Phishing," as it has come to be known, is on the rise. Not just in terms of the number of attacks on consumers, but in terms of the size of organizations that have become targets. In recent months America Online, Citigroup, Best Buy, eBay, and the FBI have been added to the growing list of organizations whose customers have been "phished.""What is phishing?" you may be tempted to ask. Despite the similarity in moniker, phishing has nothing to do with the jam-band quartet from Vermont. The word can be traced back to the mid-1990s, first popping up on Internet newsgroup alt.2600, a popular forum for aspiring computer hackers, according to wordpsy.com. The practice of phishing is relatively simple, yet it can yield very effective results.

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Continued on pg. 5
**The Advocate**

**Claret**  
*Continued from pg. 1*

“Claret is essentially in court because he broke the rules and now he is asking a judge to bend them.” Roberts stated. “I wouldn’t think a judge in this case would be too sympathetic towards finding loopholes in the legal system for him.”

The greatest obstacle to Claret is the draft eligibility rule. Because the rule is not included in the Collective Bargaining Agreement, and is not a product of negotiation between the league and the Players’ Association, the rule is not exempt from antitrust laws.

But that seems up for debate. In *Brown v. Pro Football Inc.* (1996), eight Supreme Court justices decided the challenge to anything that is a mandatory subject of bargaining, which would include the NFL draft or any terms of employment, is immune from an antitrust attack. According to Roberts, the fact that Claret is not a member of the NFL Players’ Association does not matter. Roberts said Claret might be subject to terms of the Collective Bargaining Agreement, as evidenced from *Wood v. NBA* (1987). In that case, Leon Wood was drafted and therefore became a de facto member of the NBA Players’ Association. Claret may be seen as different because he is not eligible to be drafted.

If Claret wins the injunction, it will not be binding on anyone else. “A judgment from a district judge after a full trial would have modestly greater weight, but again, it’s only a district judge.” Ross said. “Antitrust merits are likely to be reached on appeal after a trial.”

Therefore, the true test as to whether Claret will set precedent is dependent on the legal process.

**Dean Polden**  
*Continued from pg. 2*

government that served the people; the government just has been an instrument of the ruling 14 or 15 families. These families have been in power for many years and control all of the assets of the country.

So there is no formal government? They have had an elaborate constitution for many years. Probably about 25 years ago, faith-based groups began working with the people in agricultural areas to help them. They had no ability to own land. The land barons dictated where they could live. The people started banding together to improve conditions of employment and health and education, and this caused some concern among the wealthy landowners. So, for probably 10 years, the families tried to limit their power.

When you say “limit their power,” what does that mean?

Killings. Beatings. Kidnappings. One farmer, who was probably 50 to 55 years old, told us that they used to pick coffee beans and place the beans in containers. When the workers would bring them in, there were no scales. The landowners would pay the workers whatever they wanted. The community banded together and started providing some rudimentary education. He went to the landowner and said, “We need work, we understand that, but we want wages that are consistent with our efforts.”

The National Guard came, pulled him out of the line, and beat him. They told us stories of how the guerillas would come and force them into work groups that supported them. No one knew what was worse – join the El Salvadoran Army (National Guard) and kill your neighbors, or join the guerillas.

Then, in 1992, they signed United Nations brokered peace accords and that essentially stopped the civil war. It became clear that a reformation of the judicial system was needed to make it more independent from the government and to give criminal defendants more rights. This is a major struggle, but there is some movement toward civil rights.

Are those families still in power? They are less in agriculture and more in banking, communications, and manufacturing; they have just moved their emphasis, that’s all. They are still prominent, by all information we received. Think of it: a very small group of people – five to 14 families – controls virtually all banking and industry. Therefore, they control the whole government.

You talked about seeing malnourished children and third-world conditions. Did you get an idea of the health care in El Salvador?

We visited the best hospital in the country and the wards opened into the fields. People were mopping cement walkways and working hard to keep it sanitary, but you could walk from the outside courtyard right into a ward. It was incredibly old and unsanitary. They were constructing a new surgical wing, but that was decided by the government, and no one had consulted the surgeons to see what their needs were.

What do the doctors have to say about the government?

We had the opportunity to talk with the doctors very much. A surgeon was showing us around and told us of an interesting situation. The doctors had expressed concern about an incredibly high percentage of renal failure they were seeing. The doctors thought this was the result of water pollution, so they did a clinical study of 200 cases of renal failure to see if there were any common factors. The study cases crossed all age groups and genders, so they decided to gather information about where they lived. The Department of Health cancelled the study and refused to let them conduct the final stages of the research. The surgeons believes it is because they would have discovered toxic substances which easily could be traced to major polluters, so the government shut the study down.

Are there lawyers? Who advocates for the people?

**Phishing**  
*Continued from pg. 4*

four counts found for plaintiffs, is more significant.

The GLB Act, known at the time of its passage as the Financial Services Modernization Act of 1999, was adopted as a sweeping reform of the rights and responsibilities of financial service institutions. Title V of this act, dealing with customer privacy, has remained largely ignored by the FTC to date and has arisen primarily in proceedings aimed at challenging the FTC or the GLB Act itself. These actions have been brought by a variety of organizations including international banks, credit reporting agencies, and the New York State Bar Association.

The choice of this specific avenue for relief likely reflected a desire on behalf of the FTC to assert the validity of the GLB Act and to begin to define the contested scope of “customer information of a financial institution,” as it is ambiguously defined in section 527(2). This definition was clarified in the summary judgment as: “including, but not limited to, credit or debit card account numbers, bank account numbers, bank routing numbers, personal identification numbers (PIN numbers), and/or the three-digit card verification numbers on the back of credit and debit cards (civ/cvv numbers).”

The way in which the FTC framed the initial complaint left room for the court to find for the plaintiffs on all four counts and never reach the question of the GLB Act interpretation. In both counts which mentioned the GLB Act, it was used as a stepping stone to an FTC Act violation, rather than an independent cause of action. Rather than shy away from the sticky interchangeable question of the GLB Act, the court chose to lay down a specific injunction based on the GLB provision, and in doing so took a potentially important step in giving weight to the consumer privacy provisions of that act. The future implications, if any, of that definition remain to be seen.

**“Killings. Beatings. Kidnappings.”**

One of the questions I kept asking was “where are the lawyers?” The ruling party is getting ready to suspend some constitutional rights because of gang activity. This will give the police the ability to arrest people and hold them for 72 hours without reasonable cause merely because of suspicion they may be members of a gang.

There are some fledgling lawyer groups, but not much else. The students would be shocked – shocked – by the judicial lack. El Salvador has not had the rule of law for 40 or 50 years. Normally when we think about countries without a rule of law, we think of countries like Iraq, El Salvador is a neighbor of ours, and the people love Americans. One-fifth of all Salvadorans live in the United States. Dean Alexander and I talked about potential opportunities for an international program for law students in El Salvador. El Salvador has had a problematic history with civil rights and international human rights issues and may present a good political, economic and social environment to study those issues.

I can see how law students who are interested in international human rights or social justice would be interested in a program like this. Are you saying that other students would not benefit from this program?

This program is not for everyone. It’s dangerous to assume that I can go out and tell people what they need with a background in corporate law, but micro business is just starting in El Salvador. Law students with interest in corporate work may find the challenges in El Salvador to be intellectually interesting. Some Salvadorans are calling for a complete renovation of the tax system. The default rates on loans are so high that interest on loans is over 50 percent for normal people. Some of it is greed by the banking institutions, but there is no financial infrastructure for working people to gain venture capital. People are working hard, but they need more than that to succeed. There is no taxation on income because there is no income for many of the people there, and the people that have the money don’t want to be taxed. Instead, they have taxes on products. How regressive to tax the goods? Students interested in tax law and policy would learn a great deal in that legal and business environment.

Isn’t Professor Mertens taking a group of law students to El Salvador?

Yes, in January. I will be very interested in the feedback from Cynthia Mertens’ group. Opportunities like that will give our law students a chance to see the application of legal rules in a neighboring country with very strong attachments to the United States.
Speaker Addresses Criminalization of Commercial Activity

By Grant Turner
Staff Writer

Santa Clara’s Federalist Society held its first ever speaker event on Sept. 22, when Mary Neumayr spoke about the criminalization of commercial activity. Neumayr is legal counsel to Assistant Attorney General Thomas Sansonetti in the Environment and Natural Resources Division of the Department of Justice. Neumayr also spoke on the inner workings of her division in the Department of Justice and encouraged students to apply for jobs there.

Neumayr addressed the criminalization of commercial activity, a trend in the law that has gained much notoriety since the Enron, WorldCom and other corporate scandals broke out a few years ago, but which has in fact been occurring over the last few decades. The crux of Neumayr’s lecture was that while this trend has resulted in wider state and federal regulation of company behavior, the private sector is concerned that the laws and regulations are too vague to adequately provide notice of exactly which behavior is prohibited, as well as that they do little to limit prosecutorial discretion. She pointed to the reduction or elimination of mens rea requirements – another area that leaves private actors confused as to what they can and cannot do. In addition, Neumayr considered it important to consider principles of “freedom, dignity and limited exercise of government power” when applying criminal penalties to commercial behavior.

Students who attended the event were intrigued by the subject matter.

“I enjoyed the lecture in particular because Ms. Neumayr presented some real-world examples of commercial criminalization,” said 3L Vadim Alden.

Neumayr discussed the rise of the use of various statutes in different areas of law. Particularly applicable was the rise of health care fraud prosecutions in the 1990s, including Medicare and Medicaid, which Congress included in the False Claims Act in 1986. In the area of intellectual property, Neumayr highlighted the DMCA as an example of a law that brings into the discussion “the appropriate level of governmental control of copyright technologies and the DMCA’s impact on fair use and other First Amendment issues.”

Neumayr also discussed her job at the Department of Justice, where she has been since last March. She shared information with students on how to go about applying for internships and jobs there. Neumayr left additional brochures and related information with Law Career Services.

Coincidentally, the speaker’s father, John Neumayr, was an assistant professor of philosophy at Santa Clara in the 1960s. Originally from the Bay Area, she went to Thomas Aquinas College and graduated from UC-Hastings in 1989. She began her legal career just one year into law school by working as a legal intern in the White House Counsel’s Office during the Reagan administration. After law school, she worked as a litigator for Coudert Brothers in New York and San Francisco, before becoming senior counsel in the Litigation and Insurance Departments at LeBoeuf, Lamb, Greene and McRae in 1996, where she stayed until going to the Justice Department. From 1996 until 2003, Mary was the president of the San Francisco Lawyers Division of the Federalist Society, an organization comprised of libertarian and conservative lawyers and students. Most recently, the Federalist Society has been in the news due to high-profile appointments of its members in the Bush administration. It has also been at the center of controversy in many of the Senate Judicial Committee confirmation hearings.

Grant Turner, 3L, is the president of the Federalist Society, SCU Student Chapter

Peace Prize

Continued from pg. 3

Happy Halloween!
Students Weigh In On Law Career Services

By Rowena Joseph

In the wake of the on-campus interview season, some students are left with the bitter sweetness of what could have been, others with a glimpse of what the future holds, and still others asking, “OCI’s? What? When? Where?” Just as much variety exists in students’ reactions to the office that facilitates the OCI process – Law Career Services.

Student opinions about LCS’s conducting of OCIs generally fell in three categories. There were those who found the experience enriching, those who thought they could have done it on their own, and those in the middle, who were neither positively nor negatively affected by the outcome.

LCS describes the services it provides as “the bridge to the next step.” “We help give students the tools they need for their legal job search,” said Assistant Dean Skip Horne. “We are like an intersection point,” added Assistant Director Alexandria Bullara. “We work a lot with employers, not only to bring the opportunity to students, but also to gather information and be in a position so that we can advise the students even if they are having to go out and do some things proactively, which is what the employers want. We position them to put their best foot forward, so that they can have the best shot at an opportunity that’s right for them.”

Horne and Bullara together bring almost 14 years of experience in the business of career management to the LCS. Horne has worked in a similar capacity as LCS as a result of her first contact with LCS as a result of a placement. She described LCS as having good intentions but as not being very effective so that it would do one’s as a result of the LCS. LCS also makes available a library of resources that may be helpful in one’s job search, including current job listings and various legal and non-legal periodicals. The office accommodates those who are unable to make its regular hours by providing extended office hours at certain times.

“Students have been known to turn the office into their personal offices,” Horne remarked warmly. The staff encourages students to take advantage of the services LCS offers students other services in addition to advising. One is internet, printer, fax, and copy machine access at no charge. LCS also makes available a library of resources that may be helpful in one’s job search, including current job listings and various legal and non-legal periodicals. The office accommodates those who are unable to make its regular hours by providing extended office hours at certain times.

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Do-Not-Call

Continued from pg. 1

him because he only uses his cellular phone, which telemarketers are already barred from calling.

“We’re the cell phone generation,” Mercer said. “We don’t use home phones.”

The government further argues that the do-not-call list directly advances the government interest in privacy by letting consumers choose not to receive any commercial telemarketing calls.

The most difficult argument for the government is the third prong of the Hudson test, which requires that the law be narrowly tailored to meet the public interest. While past consumer protection laws, such as the one in Rowan, required customers to opt out from receiving correspondence from one company at a time, the do-not-call registry eliminates a whole class of calls in one fell swoop. The government argues that the do-not-call registry is sufficiently narrow for one simple reason: it has used the one-company-at-a-time method, one that does not work. Right now, the law requires that companies comply with consumers’ requests not to call them anymore. But the FCC’s fact-finding for the do-not-call registry found that companies often hang up as soon as consumers start to make this request, or simply ignore it. Moreover, there is no way for consumers to verify that they are on these individual do-not-call lists. Therefore, the only way to advance the public’s interest here is to have a national do-not-call list that consumers can verify and the government can regulate.

The argument that the registry does not cover charities and political parties because such noncommercial speech deserves greater protection than commercial speech.

“Don’t think there’s a big problem with the exemption,” said law student Payam Emrani, noting a longstanding history of exempting charities and political parties from legislation impacting free speech, such as campaign finance reform.

The Argument for Protecting Free Speech, Even Wildly Unpopular Speech

Critics of the do-not-call registry say that the threshold issue is not whether consumers have a substantial interest in privacy from telemarketers. Rather, as Constitutional Law Professor Edward Steinman put it: “Can the government pick and choose between different types of speech?” The exemption for charities and political parties, critics argue, is basically a statement that some callers are more important than others, which is an unconstitutional restriction on the content of speech. “It basically says that some speech is more equal than others,” says Robert Corn-Revere, a partner at Davis Wright Tremaine, who is representing the telemarketing plaintiffs in this case.

Continued on pg. 15

Assuming that the government does have the authority to make this distinction, is there a substantial interest in protecting people from telemarketers? Nothing in the trial record shows that commercial calls are more harmful than calls asking for charitable donations, according to Corn-Revere. “The problem,” he said, “is a ringing telephone.” The probability, in other words, is not the particular kind of unwanted caller on the other end of the line.

Even if commercial calls are more harmful than other kinds of solicitations, the registry’s critics note that there is no constitutional right to be free from annoyance. In fact, quite the opposite. Wagstaffe notes that “The First Amendment has historically been very fond of pamphleteers.” The Supreme Court has also ruled in favor of Hare Krishnas, Jehovah’s Witnesses, and many others who talk to people who would rather be left alone.

The registry’s critics further argue that it is not narrowly tailored enough to meet the Hudson test because there are less restrictive ways for employers to send unwanted calls. People can turn off the telephone or use an answering machine to screen calls. Caller ID can also be very effective, since the 1994 Telemarketing Act already requires telemarketers to identify themselves. Moreover, under the current law, consumers can tell individual telemarketers to never call them again and the companies must comply. “People already get to choose who they want to hear from and who they don’t,” Corn-Revere said.

The Future of the Do-Not-Call Registry

The FCC will enforce the registry until the case is tried on the merits. In the meantime, the telemarketers may sue the FCC in another district. “I would bring a case in New York, L.A., or Boston,” Steinman commented, “where the courts are more liberal. Oklahoma [where the initial challenge was brought] is among the most conservative districts.” Of course, if the federal courts wind up disagreeing with one another, the dispute could reach the Supreme Court.

Corn-Revere conceded that the registry could have been structured in a way that would avoid constitutional problems, possibly by giving consumers a wider range of choices about which commercial calls they wanted to avoid. Wagstaffe suggested that a better solution would be to restrict the time, place, and manner of the calls, rather than eliminating them altogether.

For now, the massive public response shows that the do-not-call registry has hit a nerve. And because it is so popular, it seems likely that the registry will survive in one form or another. It is probably significant that while nearly everyone contacted for this article expressed doubts about the registry’s constitutionality, all started off by saying they could understand consumer frustration.

“Don’t get me wrong – I’m on the list,” said Wagstaffe, who later described himself as “a free speech zealot.”
Officer John Bakhit: Off Duty But On Call

By Victoria Maydanik

Like a few of his fellow 1Ls, John Bakhit embarked on his first-year studies equipped with some prior exposure to the law. Unlike most of his classmates, though, Bakhit’s experience was from the unique angle of a law-enforcer.

Bakhit, a part-time student, has been a police officer for seven years, working in the crime prevention unit of the Oakland Police Department. He focused on narcotics investigations and has also taught at a police academy. His work environment has been diverse, ranging from the streets of Oakland, where he worked undercover, to the courtrooms, where he testified in cases.

Bakhit is going to learn to see both sides of the law, which may not be easy. He gave the example where police officers make an arrest and know the person is guilty, they expect the person to be charged, and it is upsetting when a defense attorney finds some technicality in the case because of which the person is released. Bakhit, who has been called to court as an expert witness, saw this happen fairly often. At the time, he thought that was really wrong. Now, while he still has not fully come to terms with it, he is starting to understand it and see the other side’s perspective.

“Technicability does not mean that a police officer had not done his or her job correctly,” Bakhit said. “It’s just that certain times there are going to be little things that are not so clear, where a trained eye might see it as being absolutely fair, but an average citizen not involved in police work might see it going this way or that way.”

This means that if the case went to a jury trial, the technicality could raise a strong enough uncertainty in the minds of the jurors that they would not be able to convict the suspect beyond a reasonable doubt. Prosecutors generally do not want to lose the case, so as not to waste public money and to maintain a certain record of winnings. Especially if a minor crime is involved, prosecutors are much more likely to try plea bargain with the suspect.

Limited resources are a big issue in police work. Bakhit once arrested a man who was on probation with a search clause, which meant that the man could be searched by police at any time. Bakhit searched him and found a loaded gun, which also happened to be stolen. There were about ten different counts involved—violation of probation, ex-felon in possession of a firearm, ex-felon in possession of ammunition, to name a few—which would add up to 120 years of prison. However, the DA explained to Bakhit that week in Superior Court they only had time for three or four cases, and they already had a murder, two rapists, and a serious robbery. So the prosecutors had to plea bargain with the man Bakhit had arrested, resulting in him receiving only six months in prison, and not even a violation of probation.

Because of cases like this, Bakhit is very dissatisfied with our criminal justice system.

“Two police officer, it’s not your ego or pride that’s hurt, it’s the fact that you are dealing with a dangerous felon that has a loaded gun where there could have been a potential for a life to be lost,” he explained.

If the felon knew that he could get away with six months instead of 120 years, he would not stay with the Department for much longer, however. He is about to be medically retired due to injuries sustained in the line of duty. He is undaunted by the transition to law school. According to him, law school is a new challenge that he enjoys. This is not to say that there are no adjustments for Bakhit to make. Philosophy of law is different in some ways from philosophy of police work.

“The law as it’s practiced out on the streets and in the actual courtroom is the real deal versus philosophy of the law idealism that’s taught in the classroom,” he said.

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Dean’s Column
Dean Donald J. Polden

Last year, I was asked to join a special committee of law deans, associate deans and faculty members from several law schools to study the incidence and causes of alcohol and drug abuse in law schools and make recommendations to the ABA’s Commission on Lawyer Assistance Programs. In connection with my work on the committee, I recently spoke at a conference on the topic of substance abuse by law students, and I want to take this opportunity to share with you some contents of that meeting.

There is considerable literature on the subject of substance abuse in law schools and in the legal profession. In 1993, a committee of the Association of American Law Schools surveyed more than 3500 law students on their use of drugs and alcohol. The committee reported in part that:

- 82% of the law students used alcohol,
- 8.2% used marijuana and 8.8% used other illegal drugs within 30 days of the survey;
- 12% of the law students reported they abused alcohol (used it in a way that harmed themselves) during law school;
- 13% reported that their abuse of alcohol and drugs affected classroom attendance, 7% reported it affected their class participation, and 2% reported that it affected their performance on examinations;
- 33% admitted to driving impaired during law school and 3% said they did it often;
- 37% of the respondents knew an impaired student and 37% estimated that 4% or more of their classmates were impaired at school;
- 21% believed at least one faculty member whose performance was impaired by drugs or alcohol.

Another recent study of substance abuse among lawyers concludes with an alarming note: a significant percentage of practicing lawyers are experiencing a variety of significant psychological distress symptoms well beyond that expected of the general population. These symptoms are directly traceable to law study and practice. They are not exhibited with the lawyers enter law school, but emerge shortly thereafter and remain, without significant abatement, well after graduation from law school.

The causes of substance abuse in law schools include psychological distress caused by the difficulty of legal materials and the lack of certainty in mastering subject matters, the “culture” of emphasizing alcohol consumption as a way to “bond” with classmates, lack of effective education programs in the law school and lack of effective policies to govern alcohol use. Some of these

What’s Out There Beyond OCI?

Of course, the Internet is always a great source for job listings and employment leads. From the LCS web site you can access links to other legal and non-legal job search sites; go to For Current Students, then click on Web Links.

If you’re conducting a job search outside of the San Francisco Bay area, we offer two additional resources. We currently subscribe to job bulletins, primarily listing post-graduate positions, from law schools across California and the nation. We can also attempt to arrange for reciprocity with career services offices at other law schools. Go to the LCS web site and click on the Reciprocity section to find out more about reciprocal arrangements with other law schools. When granted, reciprocity enables you to access the resources of career services offices at other universities. In some cases, this includes access to their online job listings.

So is there a way to get a job “beyond OCI?” Where do you get started? How do you find jobs that are out there? More importantly, how do you find the people who are doing those jobs? In general, how do you start tapping into the many resources out there within the legal profession?

The most obvious and probably easiest place to start is by combing through job listings. Law Career Services regularly receives job listings, for both part-time positions during the school year and full-time during the summer and after graduation which we post on eAttorney. We also subscribe to a number of job listing publications—newspapers and periodicals such as The Recorder, California Lawyer and PIES Job Alert. The most current issues are available in the LCS resource library.

Available, they are apt to become junk mail. By the time a position may open up, many more letters have arrived and it is unlikely, though not impossible, that the attorney will pour through files to locate your letter.

A better method is to target attorneys who work in the areas you’re interested in for informational interviews, or as Lisa Abrams (who spoke at Santa Clara last year) says, information gathering. Upper division law students have access to Santa Clara’s online alumni database, an outstanding tool for any law student’s job search. You can search the database by both geography and practice area, which should enable students to find practitioners in just about every city and every legal specialty.

Regional or national job fairs are a method used by some employers who do not travel to individual campuses to recruit. Such fairs provide employers with the opportunity to see students from several law schools at one place at one time. Employers are usually impressed by the commitment of students who travel to job fairs, often at their own expense, to interview with them. Check with Law Career Services about job fairs that may be of interest to you. DRI, for example, held a job fair last fall in San Francisco and nearly 40 Santa Clara law students attended—the most of any law school in the Bay Area.

Part-time jobs during the school year can also be a good source of networking and full-time job leads. You can find current part-time job postings on eAttorney. And don’t forget that volunteering, especially if you’re interested in a career in public service, can be an excellent way to gain some valuable hands-on experience, as well as to get your foot in the door at a particular organization. Remember that just as private attorneys network with each other, so do attorneys working for government agencies, public interest organizations, legal aid offices and other non-profits. You can find out about current volunteer opportunities through the Public Interest Resource Center in Law House.

It may seem impossible, but with some strategic thinking about what you want to do and a lot of hard work along the way, chances are you’ll start to encounter lots of great job leads. And with a little luck, you might just turn one of those leads into an offer!
SBA Column
By Emily Williams
Part-time VP

The thrill is gone. My beloved Giants, who I had hoped would get me through October, caused me to break the cardinal rule of “no crying in baseball.” I could not even make it through the last inning. I regained enough composure a few days later to root for those adorable Cubbies, but yet again, my heart was broken. Sorry, Boston fans, but at this point baseball season is over for me.

Okay, so you might be wondering what this has to do with law school. After finishing the first semester of law school, waiting what seemed like an eternity for grades and then having the wind blown out of me when I saw those evil letters, I needed something else to focus on. Recovering from grades and the stress of finding a paralegal position at a time when law firms were folding required me to find something completely unrelated to the legal world to escape to. Some people might have chosen alcohol or other recreational substances, but in the beginning of April, I rediscovered baseball. I tried to time my long commute to school with Giants day games and would be so happy when a game was still going on when I got out of class at 8:45 p.m. For now, though, my escape route is gone. Coincidently, so is the first half of the semester. The fall break probably hit many of us 2Ls like a ton of bricks as we thought, “Who are these fools that said the 2nd year would be easier?”

Part-time 1Ls have asked me about several things like the balancing of work, school, and “life,” and the significance of study groups. I’ll briefly address some of these things and try to give you my opinion, as well as views held by my classmates.

Balance – Probably the most important thing to do is to keep to a schedule. I know that many of my classmates who worked full-time would spend at least one full day on the weekend studying. Some were able to get to school a couple of hours early and study. There were others who would study after class a few nights a week. I, personally, was not one of those people. What is equally, if not more, important is to reserve some time every week for fun and relaxation and to get enough sleep. If you do not do this, you will likely drive yourself, your family, friends and loved ones completely batty. Be serious about it, too. Tell yourself that from noon to 7 p.m. on Sunday you are going to do anything else but think about law school.

Studying – Spend enough time reading cases to get the law, but focus more on any hypos or problems your professors may give you. Writing out answers to these will help you significantly more for exams than trying to memorize every case (which is not necessary and somewhat useless).

Study Groups – There are many opinions about these and this is mine. I did not find it very helpful to participate in a study group during the semester. What I think they can be helpful for is to take and then review practice exams together. Taking as many practice exams as you can will definitely help you do better in final exams. You do not have to wait until the end of the semester either. Even though a practice exam may have issues you have not covered yet, just write on the ones you do know. Trust me, I really wish I had done this.

I should probably wrap this up now. Please feel free to email me at eswilliams@scu.edu with any topics you’d like me to share my thoughts on for the next issue or if you have any questions (or complaints) about this column.

Good luck everyone! My tip for the month: Treat yourself at least once a week to a nice cocktail, cup of tea, glass of milk or whatever else soothes your soul.

Policeman
Continued from pg. 8
might not think twice about carrying a gun in the future. The issue of limited resources is something that a police officer cannot control or fix, no matter how hard he or she works.

“You can’t stick it out and do the best that you can [to solve the problem],” Bakhit said. “I don’t think I’d voluntarily put myself in that position again because it is very frustrating when you see people walking that should be incarcerated.”

As a disclaimer, Bakhit mentioned that this happened to him and in the city of Oakland, so it does not mean it happens everywhere else. For example, he heard that people in Pleasanton get six months in jail for driving without a driver’s license, whereas in Oakland similar offenders would usually walk away. The court’s calendar and the geographical area make a big difference in how a case is handled.

Bakhit reported receiving mixed reactions from friends who work in police in response to his decision to become an attorney. Some think it is great that he is moving on and going to law school, while others have a very tainted image of lawyers and are surprised he wants to become one.

“Usually the only time you are dealing with a lawyer if you are a police officer is if you are getting sued and you have somebody representing you, or if you are in court and the public defender is grilling you. That’s usually the amount of contact,” Bakhit said.

As far as choosing the area of law to practice, he is keeping his options open. This semester he is “just scratching the tip of the iceberg” with the first three core classes, so he does not know yet what is going to capture his interest. He does not exclude the possibility of working with police again in some role. As an example of a position that might interest him, Bakhit mentioned the newly created position of a liaison between the city attorneys’ office and the police department. It would allow him to exploit both the technical experience of law school and the hands-on experience of being a police officer. For instance, he would be able to let police officers know what the sources of the majority of lawsuits are, and how they can avoid liability.

Bakhit also commented that the media, especially here in the Bay Area, “does police officers absolutely no justice.”

“They [the media] give one side of the story, and even if they don’t give the other side, they just don’t give the full facts, so they don’t allow the people the opportunity to come to a conclusion on their own. They tunnel-feed them information and leave out very important elements.”

While there is not much we can do about the quality of information we receive from the media, with the help of people such as Bakhit, we can keep our minds open and try to understand the non-scholarly side of the law – law from a police officer’s perspective.

1 Report of the AALS Special Committee on Problems of Substance Abuse, 44 J. Legal Ed. 35 (1994).
3 Id. at 3.
Dear Editor:

I was disappointed to read DNC Member and SBA Full-Time Vice-President Fritz Schick’s column on the California Recall. I don’t really care whether an SBA VP was against the recall or not, but the arguments he made against it, if they can be referred to as arguments, were quite silly and full of contempt. There were reasonable people and reasonable arguments on both sides of the recall, but to argue against the recall because of some vast right-wing conspiracy or because George W. Bush is evil and/or dumb is unintelligent and unworthy of publication.

Addressing the VP’s contentions:
Hating George Bush was not a reason to vote against the recall. People everywhere agree or disagree with part or all of the Bush administration’s policies. Stating that Bush’s policy is an “overt policy of pimping, cronymism and denigration of the environment” is absurd rhetoric without citing examples to back it up. Is the VP just hoping everyone agrees with this statement and won’t challenge him on it? Which is the cronymism policy? Which administration official is a pimp? The only connection this argument has with the recall is that Bush and Arnold are both Republicans. Is that the best the VP could do?

The VP’s next argument against the recall is that Reagan was dumb, George Bush is dumb, so Arnold is dumb, too. Again, this was not a reason to vote no on the recall, or for Bustamante, as the VP encouraged us to do. This argument lacks merit and is simply so trite, it hardly merits addressing. Sure, George W. Bush has stumbled some sentences during his days. If you speak publicly as much as any high-profile politician does, surely you’ll have some gaffes. He may have more than some, but Bush isn’t alone in this situation. Pursuant to the VP’s argument, Gray Davis is unqualified to be governor because he recently said that “we have people from every planet on the earth in this state, ah, we have the sons and daughters of people from every planet, of every country on earth, in this state.” What planet is he from? If he were a Republican he would really be stupid, huh? What about Howard Dean? Is he a moron because he said that the problem of governing Iraq is the “rubber underneath the road?” Is Cruz Bustamante dumb because he recently got a C in a basic speech class based on his public utterances? I suppose he deserved the C after he injected the “N-word” during a Black History Month speech to black labor activists in February 2001? Despite these missteps, I doubt the VP’s stance would remain the same. These Democrats would get a pass.

Oh yeah, the quip about Bush being installed by judicial fiat is just as tired. As certain partisans on the left like to say: Move On.

Schick also stated that Arnold had “seemingly progressive views” that made him appealing to independent and progressive voters and that “this is a façade.” It is? Wow! Schick must know something that Arnold and everyone else doesn’t. Arnold is pro-choice but is against live-birth abortion and parental notification. Arnold is in favor of full rights and protections for homosexuals but opposes gay marriage. Arnold favors the Brady Bill, three strikes and the death penalty. Arnold was against Propositions 53 and 54 but favored Propositions 209 and 187. Arnold is against off-shore drilling and for conservation efforts in this state. Arnold is hardly a right-wing conservative extremist. But he isn’t an unabashed liberal either. His stances on these issues make him “seem” like a mainstream Californian with nothing to hide. I suppose if you are in the mainstream, you can’t be a “progressive.”

Does that mean that progressives are out of the mainstream?

I felt compelled to write this piece because I am hopeful that someday soon the people who identify themselves as liberals and Democrats will realize that the rhetoric and pure B.S. that is being fed to them by career politicians, the media, and, dare I say it – law professors, is just that. Rhetoric and B.S. And yet, far too many liberals eat it up. To me, this illustrates a collective ignorance. Here are some examples:

1) Arnold Schwarzenegger is currently our Governor-elect, thanks to a recall election that was initiated by voters of the State of California. Liberal Democrats tried to characterize the voter revolt as having been started by a small minority of “right-wing conservatives” who were “upset that Simon did not prevail last year.” Actually, seeing as how only eight million people actually voted last November, the 1.8 million certified signatures on petitions collected to give rise to the special election is hardly a small minority. As we have seen, this election brought near-record voter turnouts all over the state. Reportedly, there were about 800,000 more votes to recall Davis than he received in last November’s election. Even 25 percent or so of registered Democrats apparently voted for the recall. So, it seems, it wasn’t just the right-wingers who wanted some relief from the Davis policy of “spend, spend, spend” and “tax, tax, tax.”

2) The campaign against Arnold in the week leading up to the election was chock-full of some of the ugliest political tactics this state or nation has ever seen. Arnold likes Hitler and he’s a Nazi. Arnold groips and degrades women. Gray Davis came out and said he thought some prosecutors should look into these allegations (even though there have been several reports of Davis reacting violently when his staffers gave him bad news). It appears, thankfully, that most people in this state were able to discard this hardened Balloon Juice.

Dear Editor:

Last edition’s Letter to the Editor regarding homosexual marriage was somewhat comical yet very disturbing at the same time. Apparently, its author believed she could effectively communicate her position by writing a letter filled with hate and intolerance toward those that hold different opinions than her on this issue. The author insulted White House interns for no apparent reason, and compared President Bush to those of the past who supported racial discrimination and opposed women’s suffrage.

The author continuously referred to President Bush’s stance on homosexual marriage as if only he and a few others held those beliefs, and conveniently failed to acknowledge that a strong majority of Americans are in line with the President’s position.

The author pleaded with President Bush to “not impose your outdated Christian-Texan morals on the rest of the United States.” When a recent poll asked, “Would you favor or oppose a law that would allow homosexual couples to legally form civil unions, giving them some of the legal rights of married couples,” 58 percent of respondents said they are opposed, 5% had no opinion, and only 37% said they would support it. (Source: Washington Post poll, Aug. 11, 2003). Virtually all major polling organizations ask similar questions on homosexual marriage and the numbers vary somewhat, but in each poll a clear majority still opposes such laws. It seems as though nearly 60% of Americans hold those outdated Christian-Texan morals, but after reading last month’s Letter you’d think President Bush was huddled in the Oval Office with the Rev. Jerry Falwell on this issue.

Factual inaccuracies aside, what is disturbing about the author’s Letter is its wholesale attack on people of faith. Opposition to homosexual marriage is based on the particular behavior involved, and disapproval of that behavior largely stems from religious teachings that emphasize the values of marriage between a man and woman. Attacking people for holding legitimate and deeply-held religious beliefs is contrary to the First Amendment’s guarantee of freedom of religion. Yes, that’s freedom of religion, not freedom from religion. When certain individuals or so-called civil rights groups attempt to suppress religious beliefs that are based on legitimate opposition to a particular behavior, every American that cares about freedom of speech and religion should be troubled.

Religious-based opposition to homosexual marriage cannot be compared to past discrimination. As a result, “President” Continued on pg. 15

Letters to the Editor

While students are encouraged to voice their perspectives, the ideas and opinions expressed are exclusively those of the author and in no way represent those of The Advocate staff, or SCU faculty.
I believe any reasonable person will concede that I would agree with. Regardless, apathy are doing so because they don't believe anything more than apathy. However, in my majority of otherwise eligible Americans who upon us. Nothing boils the blood of a statist vote you can’t complain" argument, since those voting. I particularly love the "if you don’t I’m un-American, and I’ve even been told I called everything in the book, I’ve been told

"An election is nothing more than an advance auction of stolen goods." – Ambrose Bierce

Nothing bothers those who engage in politics more than hearing a person say he doesn’t vote. The first thing that comes to my mind is frustration, anger, and even hatred. After learning that I elect not to exercise my “right” to choose the new CEO of the monopoly that will rule my life, I have seen otherwise rational and intelligent people resort to irrational, childish name-calling. I’ve been called everything in the book, I’ve been told I’m un-American, and I’ve even been told I should leave the country if I don’t believe in voting. I particularly love the “if you don’t vote you can’t complain” argument, since those people blatantly neglect to see that, anyone lacks a right to complain, it is those who participated in foisting a particular whip master upon us. Nothing boils the blood of a statistic faster than telling them you refuse to participate in their fortune.

Before I go any further, I do not pretend to be so naïve as to believe that the majority of otherwise eligible Americans who refrain from voting each November (or October, in the case of lucky California) do so out of anything more than apathy. However, in my opinion, many of those who abstain out of apathy are doing so because they don’t believe their participation makes a difference, a rationale that I would agree with. Regardless, I believe any reasonable person will concede that there exists a segment of the population whose refrain from voting still counts as participation in the form of a vote against the system of government we were under. It was given the recent political battle here on the left coast, that I should give you my reasons why

you look at who won the gubernatorial election. Of the people I have talked to about the recall, many believe that Schwarzenegger could not have won the election if it were not for the recall setting. It has been rumored that even Arnold himself knew this and, in fact, seized the once-in-a-lifetime occurrence of the recall to run because he knew it was the only way he could win. This notion is extremely disturbing. Why do we want someone to run our state who most likely could not have won in a normal election?

The deathly-serious candidates, in my opinion, was what incited people to vote for Arnold. First, there was Gray Davis, and for obvious reasons, such as the deficit, he was not a good choice. Second, there was Bustamante, affectionately called by one of his opponents “Gray Davis with a receding hairline.” Third was McClintock, whose record of quality pro-lifer. Fourth and last of the likely candidates to win was Schwarzenegger, the Hollywood superstar with nothing to lose and endless funds to spend out-campaigning the rest of his competitors. Perhaps the thought that ran through people’s minds as they choose not to be a cog in the mechanisms of democracy.

Politics is the struggle between liberty and power. Franz Oppenheimer referred to these mutually exclusive goals as the “economic means” and the “political means,” to be attained through voluntary and peaceful trade and production or theft perpetrated by force and fraud, respectively. It is almost universally accepted that some amount of power is necessary to be exercised over liberty to prevent the downward spiral of society into chaos. That power is manifested in the apparatus of the state. Participation in elections is the primary method by which the people give their consent to power, to being governed by the state. Elections are what states point to in order to rationalize their use of the political means to fellow states. It is a curious truism in modern politics that people associate the presence of democratic elections within a state with righteousness of the actions of that state. If not seen as being virtuous, at least the acts are seen as pardonable. Look at how wars perpetrated by the Clinton and Bush administrations in Bosnia and Iraq are somehow justified. If it were a non-democratic nation persecuting the war, would there be any question that the entire world would be bursting at the seams in its lust for punishment?

During election cycles, we hear countless arguments about how this candidate is too liberal and that one too conservative, or a vote for Joe is a vote for [insert social goal du jour here], or my went to the polls was, “Hey, I guess I’d better pick the lesser of two evils.” Another main reason why Arnold was elected is, of course, his movie-star status. Besides voters being charmed by his Hollywood charisma, I think many people falsely believed that, since he can manage his own millions, he can somehow effortlessly keep California’s billions in check. A friend of mine told me that he had overheard a classmate say that he was going to vote for Arnold because “it’s funny” and “he’s a really successful guy.” Arnold is a tremendously accomplished man. I will give him that. He conquered the body-building scene and then went on to dominate action flicks. The man has millions of dollars and no doubt has earned most of them. Nonetheless, this does not make him a qualified gubernatorial candidate, nor does it make him a competent governor.

Apart from his glamour aspect is his absence of qualifications and sex scandals. What astounds me is how people simply put aside Schwarzenegger’s lack of political experience or background – no, marrying a Kennedy does not count – and blindly threw their support behind him. On personal favorite, “Don’t vote for him, you’re just throwing your vote away.” (Have you ever wondered who would win if everyone ignored the polls and ‘threw their vote away’ in such fashion?) Regardless of the outcome of the election, those who participate are assumed to have consented to be ruled by the winner for the next few years. The trick is that no matter who wins, the system never changes. The mechanisms by which those who possess power wield it over the masses are immutable. I would contend that the singular virtue of monarchy and dictatorships is the honesty of the apparatus; at least they don’t insult us by trying to construct consent in such a convoluted manner. Only democracy is so devious, and that is one of the reasons it is such a successful modus operandi of the state today. The “will of the people” is a more slippery concept than that. If the government were truly “we,” then those on death row are simply “committing suicide,” just to point out the absurdity of such collectivist thinking. The façade still persists largely because it plays the fame of stolen goods.” – Ambrose Bierce

Nothing bothers those who engage in politics more than hearing a person say he doesn’t vote. The first thing that comes to my mind is frustration, anger, and even hatred. After learning that I elect not to exercise my “right” to choose the new CEO of the monopoly that will rule my life, I have seen otherwise rational and intelligent people resort to irrational, childish name-calling. I’ve been called everything in the book, I’ve been told I’m un-American, and I’ve even been told I should leave the country if I don’t believe in voting. I particularly love the “if you don’t vote you can’t complain” argument, since those people blatantly neglect to see that, anyone lacks a right to complain, it is those who participated in foisting a particular whip master upon us. Nothing boils the blood of a statistic faster than telling them you refuse to participate in their fortune.

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**The Advocate**

**Editorials**

While students are encouraged to voice their perspectives, the ideas and opinions expressed are exclusively those of the author and in no way represent those of The Advocate staff, or SCU faculty.

A reason to celebrate?

By Eric M. Hutchins

Guest Columnist

Having listened to Professor Margaret Russell's presentation of Oct. 20 on “Celebrating Brown v. Board of Education”, I was left wanting for a rational explanation as to why we should celebrate. I value my personal creed not to discriminate upon race, religion and other such superficial aspects of a person, and insomuch as within the context of the American political system I do not dispute the authority of the legislature under §5 of the 14th Amendment (ignoring for a moment the heinous nature of the history surrounding that Amendment’s inception) to deal with the Plessy decision, which at the time sanctioned state discrimination. However, in the interest of maintaining some semblance of adherence to the documents that birthed the Union, I am aghast that any rational scholar of the law could perceive Brown as anything more than the outright rejection of the sacred trust of judicial restraint.

Groups lauding social justice sponsored the presentation, specifically the Center for Social Justice and Public Service and the Social Justice & Public Interest Coalition. However well meaning those groups may be, the ethical turpitude at the root of the decision that they esteem truly displays a questionable view on their behalf that the ends justify any means. Even very liberal social justice types denounce how the Brown opinion truly came into being, yet history is pushed into the shadows in order to maintain the usefulness of the decision as fodder for their crusade. Those who hold Brown in high regard point to the decision as a turning point in the dismantling of Jim Crow; yet the decade between Brown and the Civil Rights Act showed virtually no defeat of Jim Crow. It wasn’t until the 1964 passage of the Civil Rights Act and the Elementary and Secondary Schools Act that Jim Crow was conquered. The strange result of Brown was the simultaneous success of the Court to create for itself extra-constitutional authority and the failure to achieve the ends that excused that genesis.

Thurgood Marshall’s brief and oral argument were composed completely on sociological and psychological argument founded on studies whose methodology is now thoroughly discredited. On the other hand, John W. Davis, the opposing counsel, pointed out the absence of any legal justification for the Warren opinion’s key premise that segregated schools were “inherently unequal” and therefore illegal. Indeed, Davis was quoted as confidently stating that, “Unless the Supreme Court wants to make the law over, they must rule for us.” Davis was instrumental in his past accolades as solicitor general in fighting racial voting restrictions and other governmental inequities demonstrated. However, Davis well understood that decisions such as the one at hand were political in nature and as such were not the proper realm of the judiciary. Marshall’s failure to convince the Court in 1952 was due not to favor for segregation on the part of the Justices, but solely for the lack of any legal argument to counter Davis. It was only through Justice Frankfurter’s devious effort to overcome the reluctance of the Court to usurp legislative power that, upon hearing second oral arguments, they finally admitted two years later to ignore their lack of authority on the matter and establish America’s modern kirtarchy.

Justice Jackson embodied the bulwark of ethics in jurisprudence, most likely forming his beliefs in the proper refrain of courts from political acts when he served as chief prosecutor of Nazi war criminals at Nuremberg. Jackson pointed out that nothing in the text or intent of the 14th Amendment warranted the conclusion that segregation was inherently unconstitutional. Jackson rightfully pointed out that however repulsive one may find the notion, one must face the reality of the law and act to change it through the mechanism in which such laws are forged, the legislature. Unfortunately for the Constitution, Jackson suffered a debilitating heart attack, after which Earl Warren rushed to the hospital to exploit his moment of weakness, successfully pressuring him to join in his opinion. Jackson and Reed were the votes Frankfurter and Warren needed for a unanimous opinion, which Frankfurter felt was necessary to create an aura of legitimacy to the act they were about to commit. It was through Frankfurter’s manipulation that the other members of the court were convinced one by one to abandon their restraint. He acted to supply his former clerk Philip Elman with the contents of behind-closed-doors discussions between the Justices. This enabled Elman, then a staffer for the solicitor general, to pen an amicus brief that was able to effectively address each Justice’s objection. The solicitor general’s brief predictably concluded that the language of the 14th Amendment was plastic and its intent ambiguous, giving license to a more modern interpretation. It was the Frankfurter-engineered brief that created a majority that Warren transmogrified into a newspaper-worthy opinion.

When in 1987 Elman revealed in the Harvard Law Review the conspiracy that resulted in the Brown opinion, he admitted that “Marshall could have stood up there and recited ‘Mary Had a Little Lamb,’ and the result would have been exactly the same.” Erwin N. Griswold.

**Ignorance**

Continued from pg. 11

this crap with a pooper-scooper and see it for what it was. I should also say, though, if you believe that Arnold did these disgusting things to women, based on a largely uncorroborated story published by the L.A. Times, and if you decided you didn’t want to vote for him on that basis, that’s fine. The problem I have with that is that the same folks railing against Arnold were defending Clinton during Monica-gate – and Clinton was actually in office as our president. Is that not hypocrisy? Now, somm might say that attacking Clinton and defending Arnold is also hypocrisy, but I don’t think I’ve heard any Republicans actually saying that it’s okay to gape and harass women – rather, the argument has been that the conveniently late release of this story represents quintessential dirty politics. Many Clinton supporters, however, suggested that “sex” does not have anything to do with a president’s capacity to do his job, and besides, this was a private affair between consenting adults. But Clinton is a Democrat, and Arnold isn’t. So, are liberals upset with the conduct or with the alleged offender’s political affiliation?

If you think my preceding point was complete B.S., then I would urge you to review the comments made by Patricia Foulkrod, an activist associated with “Code Pink: Women for Peace,” which essentially answered my question: “The difference is that Clinton was so brilliant…If Arnold was a brilliant pol and had this thing about inappropriate behavior, we’d figure a way of getting around it. I think it’s to our detriment to go on too much about the groping. But it’s our way in. This is really about the GOP trying to take California in 2004 and our trying to stop it.” (Dirty Tricks: Gray Davis and the L.A. Times go into overdrive to sink the Schwarzenegger campaign, Bill Whalen, The Daily Standard [online arm of The Weekly Standard] Oct. 6, 2003). This quote is illustrative of my point. The liberals are not concerned with the issues because their position on issues does not stand up careful and thoughtful scrutiny. Further, it’s not about the groping, or inappropriate behavior… it’s not even about Arnold or California – it’s about President Bush’s bid for reelection.

“Brown” Continued on pg. 14

3) Then there’s Prop 54. Prop 54 represents a step in the right direction towards a color-blind society, and yet, its opponents decried it as thinly veiled racism. Bustamante and others spent millions of dollars to defeat 54, relying, in large part, on the fact that the majority of the electorate would not take the time to actually look at the proposition and decide for themselves. The “no on 54” commercials (remember the one with the former Surgeon General) told us that if we vote for 54, we will put an end to significant advances made in the field of medical research. That doesn’t sound very good, maybe I should vote “no on 54.” But wait…if I read the language of the proposition, I come across the following: “(f) Otherwise lawful classification of medical research subjects and patients shall be exempt from this section.” Oh. I find it ironic that the people advocating for a color-blind society (most often Republicans) are the same people called racist.

How’s that for “preying on ignorance?”

4) The rhetoric is not limited to politicians and the media. On campus, we have students and professors essentially telling us what to think without providing any reasons to think it. Our SBA VP Fritz Schick submitted an article to the last issue of The Advocate which was illustrative of the points I have tried to make here. Schick posited that Issa and Simon were forced out of the campaign by the Republican Party – of course, it could have been that the two candidates realized they didn’t stand a chance against Arnold’s name recognition and popularity. He described why Arnold is a poor choice for governor because he is likely to follow in the footsteps of the Bush administration, which, according to Schick, engages in pimping and cronymism. Of course, Schick doesn’t bother to elaborate on how Bush is a pimp, or which policy reeks of cronymism. Perhaps he hoped that his article would prompt responses such as mine, knowing that these responses would not be published until after the time to actually look at the proposition and decide for themselves. Schick posited that Issa and Simon were “preying on ignorance.”

“Ignorance” continued on pg. 14

OCTOBER 2003 - 13
Ignorance
Continued from pg. 13

Schick concluded his article by telling us that we ought to vote, how to vote and for whom to vote. It was almost an after-thought. Oh yeah, vote “no” on the recall, vote for Cruz, yes on 53, and no on 54. That’s it. He did not address the issues and why Davis or Cruz has the better position, or (as some have argued) how exactly Prop 54 could be construed as a racist measure. Just rail on Arnold and popular Republicans, and then command from on high who we sheep should vote for. By golly, Schick really is a Democrat!

Then there are the members of our faculty who believe the classroom is the proper forum for them to let us all know, unequivocally, where they stand on the political spectrum. I have a professor (without naming names) who addressed our groaning at a burdensome reading assignment by suggesting that “well, just don’t bother yourself with voting in that crazy recall, and you’ll have time to study.” (Not a direct quote, but pretty close). So, now, law professors are advocating voter apathy. Ask yourself how many professors do you know are liberal? And how many do you know are conservative (who would admit it)? Personally, I have yet to take a class with a professor who makes it crystal-clear that he or she is a conservative. On the other hand, I have had several professors who have no qualms about letting us know that they think Bush is a moron, or that Scalia is insane, or [name a conservative] is [something not good]. We have professors who sit on a panel to educate us on the recall election – but only referred to it as a “circus,” “democracy gone wild,” and “it’s not a hopeless situation…it’s not completely negative either.” Not exactly a resounding endorsement of the peoples’ right to recall under our state Constitution. So, we’re paying about $950/unit, which works out to $60-70 per classroom hour, to hear professors profess their liberal faith. I shiver when I think about a course entitled “election law” making it onto the schedule.

Finally, I’d like to comment on Mr. Schick’s point #4: “If Gray Davis is replaced by Schwarzenegger, you can bet that another recall attempt will be initiated.” Great! I think what the liberals are missing is that it’s okay to participate in government, to hold our elected officials accountable for their misdeeds, and to make our collective voice heard when individual voices are not getting through. Why do you think you saw thousands of people in the streets protesting the war in Iraq? Because one guy on a street corner with a sign won’t send a message. So, people like Melanie Morgan of KSFO radio (560AM, for those interested) get the ball rolling, and then people realize they actually do not have to put up with a terrible governor for another three years! So, if you don’t like what Governor Schwarzenegger does, then by all means, make your voices heard. I’ve heard talk of giving him all of 100 days to fix this state before another recall is initiated. Well, that makes sense, I mean…Davis had five years to put us in the crapper. Arnold should be able to fish us out, dust us off, and make our state prosperous again in three months. Kind of like how the people of Iraq should be good-to-go in a half-year or so. At least, that’s what the liberals would have us believe.

Ryan A. McCarthy is a 3L.

California
Continued from page 12

Later that evening, I talked with my friends who shared in my puzzlement. After hearing the news, my friends told me things such as, “I’m wearing black tomorrow” and “I’m moving to Oregon.” Their comments echo the sentiments of many Californians, especially in the Bay Area. Nevertheless, it is apparent that the near majority of Californians voted for Governor Schwarzenegger. I just want to know if they can be proud of that.

As an undergraduate who majored in Political Science, I was appalled at the 135 candidates running for governor, and I considered Arnold to have the same chance of winning as Garry Coleman. On one hand, I thought, what a mockery of American democracy when Garry Coleman, Arnold Schwarzenegger, Larry Flynt, and a sumo wrestler can run for governor of California. Yet, on the other hand, I celebrated the fact that I live in a state, and more importantly a country, where movie stars, porn kings, and grandmas can all run for an elected position. In other countries the elections are rigged or there are no elections at all. However, in the grand old USA, I have a democratic right to vote for any freakish candidate that I choose. God bless America.

Brown
Continued from pg. 13

longtime Harvard Law School dean and former Solicitor General himself observed that the acts of Frankfurter and Elman were clearly regarded as improper then and now, and that their goal had been precisely to obscure the fact that a constitutional basis for Brown was lacking. But such a blatant abrogation of the duty of the Court shouldn’t worry those here at our fine school who carry the banner of social justice. After all, it’s not how you get there that counts, right?

Those in favor of activism in the name of social justice love Brown. Those lawyers, judges and law professors sometimes play the “Brown card” to combat those who abhor judicial activism by characterizing them as racist. Such a play draws tenuous comparisons of any repudiation of Brown with a desire to revive segregation. In order to protect their reputations the restraint champions grow silent, opening the path for activists to use the judiciary to mold society to their vision. Why should the more arduous path through the legislature be traveled when the social engineers can frolic through the courts with virtually no resistance?

The result of Brown is that the court’s hands are untied, free to hand down purely legislative opinions such as Justice Brennan’s in the 1979 case of United Steelworkers v. Weber. In that case, the majority ignored the clear language of the 1964 Civil Rights Act prohibiting discrimination based on race and accepted a race-conscious program that reserved 50 percent of the openings in a company’s employee training program solely for black employees as permissible. The color-blind origin of the Civil Rights Act was perverted into a mandate to include race as a factor in virtually all decisions in government and business, perpetuating the racial divide to this very day. Of course, Brennan was only adhering to Warren’s point in Brown to set aside the context of the Act’s adoption and the plain words of the statute in order to bring the Act “up to date” as Brown did to the 14th Amendment. Those who support the current Affirmative Action programs like to point out that nowhere in the statutes does the legislature use the word ‘quota’. This argument is meant to combat opponents of race-based policies, but it neglects the stark reality that the Court has established as precedent that the words of the statute have only the meaning the Court gives them at that moment in time. So the de facto result in many areas is a quota. Hence, the American dilemma over race lives on while in virtually every other civilized nation race is a non-issue. In those countries we are all members of the human race, judged by the content of our character not the color of our skin.

As one who places great importance on liberty, I call on those who truly believe in what is just to renounce Brown. The world will not explode. Jim Crow won’t climb out of the grave. Indeed, those who espouse the righteousness of democracy should applaud the return to Congress their role to design the laws. The last thing we should do is to celebrate this landmark act of judicial tyranny. Instead, we should look to celebrate the death of Brown, when the Court will again be forced to pay attention to the words in the statute at hand instead of rewriting it to reflect its personal policy preferences, and perhaps we will return to the ideal of a government of limited powers which is inherently more just for all.

Vote
Continued from pg. 12

Department of Homeland Security, the Federal Reserve, Social Security or Affirmative Action would meet with the framers’ approval regarding the role of the national government should reserve a room at Betty Ford. Government is a monarchy and hence is unchecked to expand into every facet of my life. As a person who values individual liberty and wants competition and voluntary contract for the provision of the few necessary services the state ineptly attempts to render, why would I wish to see it survive? Now the question becomes, “What is my proper role in trying to change it?” Voting for a candidate who promises me everything I want won’t do me any good, since, firstly, there will never be such a candidate, and, secondly, that person would never be effective. Do you seriously believe that anyone in office has the power to change the system, even if he wanted to? If the power of the state could be constrained by political means, certainly the many people in American politics who have extolled the virtue of “limited government” would have made some appreciable effect. Still, government’s intrusion into every recess of our existence grows each day and shows no sign of stopping.

My only choice is to refrain from voting. This is the only way I can avoid liability for the harms done by those the electorate arms with such pervasive and destructive power over our lives. Make no mistake, all of you who vote share the blame, regardless of whether your candidate won or not. By casting a ballot, you have agreed to be ruled by the winner of the election, and that necessarily includes accepting responsibility for the acts of the officeholder. While you can’t sue for the acts of an elected official (however much the idea delights me), the daily infringements on the rights of individuals everywhere would not occur but for the acts of the voting masses in placing that individual into power.

For more information about the rational non-voter, visit the site of the League of Non-Voters at www.non-voters.org. Eric Hutchins is a H. When not urging people to burn absentee ballots in effigy, he enjoys watching baseball and ice hockey, looking for a cheap place to play racquetball, discussing anarchism, and enduring Criminal Law with Professor Steinman.
LCS
Continued from page 7
to the students regarding the employers but is in no way involved in the selection of persons for interviews.

But Collins’ dissatisfaction doesn’t stem only from OCIs. As a 1L last year, she made the requisite trek to LCS to review her resume. She related that, although she found the staff pleasant, the advising itself was not all that helpful. She admitted reluctantly that she is not that impressed with the services offered.

Others too shared this somewhat lackluster impression of LCS, at least upon first contact with the office.

“As a first-year I didn’t really do anything except go for an advising appointment to have them look at my resume,” Sue Lake, a 2L, candidly reported.

“It was weird. I thought my resume was good, but the legal resume was very different. It wasn’t up to par. The approach they took was very intimidating.”

Last year’s 1Ls were the first class to be required to come in to LCS, as a means of getting students to the office, to obtain their e-attorney password, which is used for OCIs and the job search process.

Other students came away with the feeling that LCS was not very helpful for those who did not have a specific career path in mind.

“Usually people come in and they are so confused,” Bullara said. “If you don’t even know what you want, it’s hard for us to help you.” She added as advice to students, however, “not to base your experience on the one time you saw us as a 1L. That’s not even enough. There’s so much out there.”

In fact, what the students who had more positive experiences with LCS tended to have in common was that they returned to the office on a number of occasions for different reasons.

“This year was a great experience with [LCS]. I got to see what else was going on at the office. I didn’t realize there were so many other things that I could make use of out there,” Lake happily offered.

For others, the experience was improved by seeing one staff member instead of another. Still for others, coming in for advising when not under the pressure of actually applying for a position was more useful. But there are still students who feel that LCS is not for them.

One general concern that permeated discussions with students was that LCS appears to be focused on the high tech market and large law firms.

“Students don’t really understand the market place, and sometimes maybe they don’t want to hear our understanding of what the market place is about,” Bullara said.

“For example, if you want to practice entertainment law in the Bay Area, it will probably be difficult because there is a geographic component involved in that.”

She attributed the seeming focus on high tech law as a consequence of the legal market in the Bay Area.

“The reality is that we have a lot of students who come here with an interest in [intellectual property],” Horne said.

“Given where we are located and given what we built our reputation on, it’s expected.”

In an attempt to clarify the high tech issue, Horne also added, “OCI takes four weeks out of the year. It really is only for a very small percentage of law firms or legal employers. Ultimately it will only benefit a really narrow group of students who are interested in those kinds of benefits and opportunities. . . . Really, it is those students who aren’t at the very top of their class who can ultimately benefit from our services.”

Students seem to feel particularly daunted by the paucity of resources for those interested in careers in public interest, government, and international law.

“As law students are never without solutions and offices like LCS never without an open ear, a solution seems to arise. LCS encourages students to come by just to find out for themselves how it can be helpful. Although it makes attempts to be visible by maintaining a website with news and events, sending out weekly list serve information and posting flyers, as well as co-sponsoring events with student groups, it welcomes students to offer new approaches and ideas that may make it more useful.”

The following comment from Bullara perhaps epitomizes LCS’s response to the criticism:

“We see ourselves as coaches, to provide support and encouragement. Sometimes it’s giving you information that may or may not be very welcome. People who come and use our office the way it should be used have really good experiences with us. We want our students to succeed, but sometimes it’s frustrating that more students don’t come. A lot of people come and wish they had come by earlier. You don’t know until you at least come by.”

The students have advice of their own that may help.

“Make sure you have really thought about what you want to say to them once you get there; otherwise, it may not be that useful,” Johnson offered.

Collins suggested that doing proactive work may be the best approach.

“Be prepared to do a lot of research on your own,” she said.

The most salient advice may come have a student whose initial contact was described as “intimidating” but who now finds LCS to be a great resource.

“Go there for yourself first,” Lake said. “Get a feel for it. Take a look at the books, etc., and maybe ask a couple questions before you really sit down for an advising appointment. I never made an appointment I just chatted with them. If you never get there, make sure you attend the workshops they offer.”

Lake also agreed, however, that if you go to LCS without knowing what you would like to talk about, you may come away disappointed.

“It may be that LCS is useful for some and not for others. It may be that, as Horne wisely offered, “People come when the time is right.” It may also be a tyranny of the vociferous minority of negative experiences.

“I think our culture at Santa Clara lends itself to people who do well and get jobs and [to not] talk about it,” Bullara said. “And people who don’t get anything do the most talking. The same is true about our office. People who don’t come to our office and have a bad experience talk the most about it.”

It seems that one’s personal view must be determined by experience that can be attained only by a visit to LCS.

Recall
Continued from pg. 11
Finally, the VP argued that if the recall passed, we’ll just have more and more recalls for every governor, starting with Arnold. While this may have been a sound argument against the recall, Schick got confused trying to make it. He stated that “if you don’t like the laws, advocate for their change and get involved.” Hello, Mr. Vice-President, the recall is the law. If you don’t like the way it was used, “advocate for its change.” Somehow, I bet that any attempt to recall Arnold will get VP Schick’s full support and a movement for making recalls harder won’t. Hopefully, the bitterness that angry state (and national) Democrats feel about the ouster of Davis won’t be turned into petty retribution.

I was glad that the VP urged everyone to vote on Oct. 7. It is our civic duty to inform ourselves on the issues and exercise our vote. Hopefully, next time he wishes to get up on his soapbox and instruct us all how to exercise our vote, he’ll come armed with reasoned arguments instead of hackneyed clichés.

Sincerely,
Grant Turner, 3L

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President
Continued from pg. 11
based on race or gender. Homosexuals are not denied the right to vote or to hold certain jobs as women and minorities were. Homosexuals come from every race and social class. Opponents to homosexual marriage do not care what homosexuals look like or where they come from. It’s all about the behavior. A clear majority of Americans still find that behavior offensive and for a variety of reasons are not prepared to welcome it with open arms. Attacking religion and resorting to childish name-calling will not advance the author’s position.

Homosexuality is legal and that is perfectly fine with most Americans, including myself. Nobody wants the government telling us what we can and can’t do in the privacy of our homes, no matter how offensive it may be. But neither does the majority of Americans desire to have the homosexual agenda shoved down their throats and taught to their children when there is so much legitimate opposition to that type of behavior.

The author and those espousing her position need to be tolerant and civil toward people that do not share their beliefs. Homosexuals are free to enjoy every civil liberty guaranteed by the Constitution; nobody, including the President, is advocating anything different. It is clear that a majority of Americans is not prepared to erase the definition of marriage as we have always known it.

Sincerely,
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