

# ARIZONA ADVOCATE

University of Arizona College of Law

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Number Two

October 1992

## Class of '95 is Young, Bright, Diverse

By Katie Roberts

The fall of 1992 saw 168 new faces at the law school from 22 states and 77 undergraduate schools. This year's incoming class competed with 1757 other applicants to win a spot at the UA. They represent 44% of the 385 applicant accepted.

The class is comprised of 105 (62.5%) Arizona residents. 63 (37.5%) non-residents, 50 (30%) minorities (40% of these are non-residents), and 79 (47%) women (29% of these are non-residents). Nearly 27% of the total class is from the UA, 5% is from ASU, and 68% is from NAU.

Undergraduate academic performance of the class is high, with 40% of the class entering with a G.P.A. of 3.50 or better, 43% with a G.P.A. of 3.00 to 3.49, and 17% with a

G.P.A. of 2.35 to 2.99. The high G.P.A. for the class was 4.09, and the low was 2.35. The median was 3.41. (The median is, out of 167 G.P.A.s, the 84th, or middle, G.P.A.) The class average was 3.34. That the median is higher than the average signifies that class G.P.A.s overall are quite high.

The G.P.A.s of only 167 members of the class are included in the statistics because one member graduated from a British school that does not award grades.

LSAT performance was impressive as well. The LSAT scale changed as of June 1991 from 10-48 to 120-180, and the following statistics include only the 140 members of the incoming class who took the LSAT after this date. Of the 140 individuals, 39% scored 162

*to Class of '95, p.8*

## College of Law Absorbs 4% Budget Cut

By Greg Cohen

The College of Law was required to absorb a 4% budget cut in the UA's latest round of budget reductions. This is the smallest of three possible sets of budget cuts, and translates into a loss of approximately \$140,000. Below is a list of the budget reductions for the 1992-1993 budget year:

- Reorganization of the computer facility
- Elimination of the secretary in the Career Services office
- Elimination of stipends for Ares Fellows
- Elimination of membership in the Center for Comparative Study of Law
- Elimination of funding for the Law Review Library
- Elimination of Federal Express usage
- Reduction of faculty travel allowances
- Reduction of faculty research assistants
- Reversion to black and white College of Law letterhead

- Elimination of OCLC terminal
- Reduction in state budget support for CALI

• Change in funding for student wages from the administrative budget to the application fee fund

- Assignment of salary savings

The proposals for absorbing this round of budget cuts were assembled by the Long Range Planning Committee which was chaired by Professor John Strong. Alex Gabaldon, 1991-1992 SBA president, was the student representative to the Committee. The Committee was asked to prepare proposals for absorbing budget cuts of 4%, 6%, and 8%. After the Committee assembled its proposals, Dean E. Thomas Sullivan presented them to the university-wide Ad Hoc Academic Budget Advisory Committee, which then made budget reduction recommendations to President Manuel Pacheco.



# Feed the Worm

Five years ago, the *Arizona Advocate* was flying high. The American Bar Association proclaimed it to be the second best overall law student newspaper in the United States for the 1987-88 school year. This was no small accomplishment for a paper that had suffered an eighteen month lapse in publication a short time earlier, with no issues at all for 1985-86. On the other hand, the *Advocate* had already garnered numerous awards between its founding in 1966 and its mid-Eighties collapse, so there was also plenty of precedent for excellence.

Regrettably, the *Advocate* began to deteriorate as the Nineties began, diminishing in quality and frequency until only two issues came out in 1990-91. Last year, there was no *Advocate* published at all.

However, with last month's issue, the *Advocate* again resurrected itself, like a phoenix that time and again crawls from the ashes of its own pyre as a grub that will eventually metamorphose back into the majestic bird that it once was. The *Advocate* is poised to take flight once more, and its plans are ambitious.

We intend to come out six times a year from now on, thrice each semester. We aim to publish writing that is not merely narcissistic or self-contratulatory, but truly interesting, enlightening, and provocative. The *Advocate* is distributed not only by hand at the College of Law, but also by mail to more than 200 practicing lawyers, most of them in Tucson. We desire, need, and appreciate feedback from all

of our readers -- student, faculty, and lawyer alike. In other words, this newspaper is for real.

Although the *Advocate* has great things ahead of it, it is still but a worm in the ashes. To take flight again as the brilliant creature that it was and shall be, it must be fed. And that's where you come in. Read it. Write for it. Send it letters. Respond to it.

Feed the worm.

## .....NEWS RELEASES.....

### PDP: Hurricane Relief

The Phi Delta Phi Pattee Inn would like to thank those students, faculty, and staff who donated personal care items for the hurricane Andrew relief drive, which was held from September 8th through September 18th. The donations were dropped off at the Salvation Army for distribution to both Florida and Louisiana victims of the recent hurricane. We are certain that the victims will greatly appreciate your generosity and compassion for their most unfortunate circumstances.

### PDP: Annual Food Drive & Raffle

Starting on October 13th and running through November 13th, the Phi Delta Phi Pattee Inn will once again host its annual fall food drive for the Community Food Bank. There will be a new twist this year. For every three units of food donated, you will receive a raffle ticket. A unit of food is one canned or boxed item, such as one can of vegetables or one box of macaroni and cheese. Prizes will include various and sundry gifts donated by area merchants. One of the prizes will be two tickets to the Sunday Final Elimination Rounds of the February NHRA Arizona Winternationals at Firebird Raceway in Chandler. There will also be a special prize for the first year small section that brings in the most food. The raffle will be held on November 13th at noon. Food will be gathered during regular bagel sale times (8-11 a.m. on Tuesdays and Thursdays) and during the noon hours. Look for flyers in all the usual places. Bring in your canned food and help to feed those who are hungry.

### MLSA et al: Baker/Rinaldi Reception

The Minority Law Students Association, in conjunction with the Arizona Minority Bar Association, the Law Women's Association, and the Student Bar Association, will host a to News, p.4

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# Recent Grad Heads Arizona Minority Bar Association

By Tracy Earl

Only two years after graduation, University of Arizona College of Law alumnus and Arizona Minority Bar Association President Rafael Gallego's future looks bright even in the legal profession's uncertain economic future. On September 1st, Mr. Gallego entered general private practice, passing up an opportunity to prosecute one of the most publicized murder cases in Arizona this year against Jeffrey Logan and Thomas Kemp for the abduction and murder of Hector Soto Juarez. Mr. Gallego is confident and focused on his goals as he leaves the Pima County Attorney's office to begin private practice.

Mr. Gallego's route to private practice is built on a work ethic that keeps his career moving forward. His non-traditional entrance into college occurred seven years after high school graduation. He spent those seven years at a variety of jobs that included breaking rocks in the Magma mines, but with a wife and two children and limited career opportunities, Mr. Gallego decided that he needed to refocus his goals toward continuing his education. Mr. Gallego managed to work his way through college in only three years and brought the same level of commitment to law school.

Mr. Gallego says that during law school he barely managed to hang on financially and

academically. He stayed active throughout law school, juggling family life, clerkships, and the duties of office as Minority Law Student Association President in his second year and Student Bar Association President in his third year. Although his grades suffered, Mr. Gallego says the he felt the need to stay active in order to feel that he belonged, and he continued to stay focused on his goals. He added that he was fortunate to find an employer that looked beyond his bluebook scores to conclude the his grades did not accurately reflect his ability to become a good attorney.

Mr. Gallego continues to remain active in the legal community through his duties as President of the Arizona Minority Bar Association (A.M.B.A.). The organization currently has approximately 75 members but is rapidly growing, and Mr. Gallego's duties include trying to get more minority attorneys involved. Mr. Gallego feels that there is not enough involvement on the part of the legal community in A.M.B.A.'s goals, which include encouraging minority lawyers to reach the top of their profession, providing financial assistance to law students through scholarships, and lending moral support through the mentoring program. Additionally, A.M.B.A. endorses candidates for appointment to the bench, but Mr. Gallego insists that A.M.B.A.'s purpose is professional and not political.

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*from News, p.2*

welcoming reception for the new faculty members, Ms. Lynn Baker and Mr. Ron Rinaldi. The event is tentatively scheduled for October 21st, 1992, from 5:00 to 7:00 pm at the Congress Hotel in downtown Tucson. There will be a no-host bar, appetizers, and a great opportunity to meet the new faculty members and local attorneys. Everyone is welcome to attend.

## MLSA: Tutorials & Bridge Program

The MLSA First Year Tutorial Program has started once again. All first year students are invited to attend the tutorials. Each substantive class has a tutorial session once a week. Tutors are second and third year law students who are dedicated to helping first year students grasp the often difficult material. Those who attend the tutorials must be members of MLSA. MLSA is a non-exclusive, all-inclusive organization, open to all law students. For further information on becoming

a member and attending tutorials, please contact Pogo Overmeyer at 883-7476 after 6 pm or catch her in the hallways.

In connection with the tutorial program, the Minority Law Students Association is pleased to announce the Gonzales-Villareal Bridge Program, an endowment to fund the MLSA Bridge Program, Tutorial Program, and 2nd/3rd Year Writing Program. The law firm of Gonzales-Villareal donated \$20,000 to begin the endowment fund, which is hoped to grow to over \$200,000. The goal of the program is to help minority students in their legal education by funding MLSA programs. MLSA began the First Year Tutorial Program a number of years ago, relying solely on volunteer tutors. Today, the First Year Tutorials have grown to a phenomenal success, with outstanding tutors and the needed support services for implementing the program. Dean Willie M.J. Curtis, the director of the program, has been instrumental in helping MLSA attain the goal of professional tutoring services. With the efforts to Releases, p. 8



## .....IN BRIEF.....

•Professor Arthur Andrews has been appointed to the Faculty Board of Editors of the *Florida Tax Review*.

•Professor Mark Ascher has written an article entitled "The 1990 Uniform Probate Code: Older and Better, or More Like the Internal Revenue Code?" that will be published later this year in the *Minnesota Law Review*.

•Professor Barbara Atwood, who is completing her term as Chair of the Research Committee on Indian Law for the Ninth Circuit Gender Bias Task Force, has been appointed a member of the District of Arizona Gender Bias Task Force. Professors Atwood, Dan Dobbs, and Robert Glennon were among those whose works were cited by the United States Supreme Court in its last term.

•Librarian Francisco Avalos is the author of a recently published book, *The Mexican Legal System: A Reference Guide*. It is designed to assist researchers who do not understand Spanish.

•Professor Lynn Baker is the author of a forthcoming article in *Law & Human Behavior* entitled "When Every Relationship is Above Average: Perceptions & Expectations of Divorce at the Time of Marriage."

•Professor William Boyd has received a \$16,000 grant from the National Center for Automated Information Research (NCAIR) to develop a software system for writing multimedia instructional software. Mr. Boyd and Professor Charles Smith co-authored a recently published book entitled *Debtor Creditor Law in Arizona*.

•Librarian Carol Elliott moderated a panel on "Law Clerking" at the Southwestern Association of Law Libraries annual meeting this summer in San Antonio, and also moderated a talk on "International Librarianship" at the Second Annual Transborder Library Forum in Hermosillo.

•Librarian Robert Genovese spoke on "Disaster Planning for the Law Library: Why and How" at the Annual Conference of the American Association of Law Libraries in San Francisco in July.

•Over the summer, Tucson attorney Michael Rusing and law professor Patricio Lopez announced the formation of a new law firm, Rusing & Lopez. Lopez will return to the College of Law next semester as an adjunct professor.

•Professor Tom Mauet published the third edition of *Fundamentals of Trial Techniques* in June, and a *Litigation* article entitled "Can Trial Lawyers be Taught?" in September. He recently completed the second edition of *Fundamentals*

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of *Pretrial Techniques*, to be published in February.

•Professor Theodore Schneyer has been awarded the New York State Bar Association's 1992 Sanford D. Levy Memorial Award for his *Cornell Law Review* article "Professional Discipline for Law Firms?" The award is made each year to the person whom the New York State Bar Association's Committee on Professional Ethics considers to have made the greatest contribution to the field of professional ethics in a published article or commentary.

•Dean E. Thomas Sullivan spoke to the ABA Section on Legal Education at the ABA Annual Meeting in San Francisco in August on "managing Law Schools During Financial Exigencies" in August. He spoke to the Section's Conference on Institutional Development in June on "Alumni Relations, Special Events, and Successful Development." Dean Sullivan has been selected by other UA deans to represent them at the University Faculty Senate this year. He also co-wrote an article in the economics journal *Margin* entitled "An Economic Analysis: Why the NCAA Does Not Exploit College Athletes."



# Family Values: Who Needs Them?

## We all do.

By Michael Massee

In spite of cynical electioneering revolving around the subject, I think the topic of "family values" merits serious public debate. Of course, in order to do this, we need an adequate definition of the term. For this article I am going to apply a broad definition, and treat it as synonymous with traditional Judeo-Christian morality.

It seems to me that lack of moral character in individuals carries a high societal cost. One need only look at increased juvenile crime, record levels of white collar crime, staggering increases in the rate of teenage pregnancies and illegitimate births, women and children abused by family violence, and children victimized by all-too-casual divorces to see some examples of the costs we as a society bear for dysfunctional behavior. Because many of these costs are socialized by government-run penal systems, the welfare state, and private insurance schemes, I think it is incumbent on us to ask what legitimate role government has in curing, or at least minimizing, these social ills.

I perceive it as a universally human experience that as man began to live in complex societies coercive norms were developed for individual human behavior. Examples of this are the Mosaic Law; the concept of right conduct developed by the fourth century B.C. Tamil warrior-philosopher-king Ashoka, who was heavily influenced by contemporary Buddhist thought; Confucian emphasis on duties; and the Muslim sharia. So I think that Bill Bennett is right to emphasize religion-based morality in discussing values. Our culture developed from a coherent system of Judeo-Christian ethics and, if for no other reason than cultural heritage, they deserve a presumption as being functional societal norms.

But the internal contradiction of our society is that it was also formed in part by rebelling against conventional norms, especially repressive economic restrictions. Adam Smith carried very little favor with the Church when he posited that by each individual seeking to maximize his own benefits, society as a whole would also benefit, not lose. This is certainly counter-intuitive to Christian ethics, which

to Moral Standards, p. 9

## Not battered children.

By Pogo Overmeyer

This past August I settled into the rocker with my coffee cup in hand, ready to watch the Republican convention. Surprise, surprise! After Patrick Buchanan's speech I thought I had the wrong convention. But it grew worse by the day. I had hoped to hear what the party planned to do about the economic disaster in our country, but I had to listen to family values. Those godless Democrats were simply tearing asunder the family because of radical feminist views that likened marriage to slavery and advocated divorce by children, homosexual love trysts that threatened the internal affairs of the military, and worst of all, draft-dodging candidates. The hate went on and on... By the end of the week I was convinced that I had instead watched a national gathering of the Ku Klux Klan, the Neo-Nazis, and the White Aryan Resistance Movement, with a few Bible-thumping preachers thrown in for kicks. Lordy, where was Jimmy Swaggert at this finest hour of religious intolerance? The only other things missing were David Duke, the white hoods, and burning crosses.

Nothing torqued me more than listening to the great theme: red-hot radical feminists are advocating that all children should divorce and/or sue their parents for bad parenting. BOO! HISS! HISS! Will someone take these idiots by the hand and lead them through some battered women and children's centers? Better yet, will someone put them in the same situation as many of the battered children, namely having someone three times their size and weight beating them senseless or raping them every night? Maybe then they just might get it. Feminists never advocated that every child should have a right to sue his or her parents over trivial matters that did not result in torture. We are simply advocating equality for children who are victims of physical and mental abuse.

Imagine being three years old and having an adult stranger beat you severely. The stranger beats you so severely that 26 bones are broken and you are in a coma. If you survive, it will be by some miracle, and you will be extremely fortunate if there is no permanent brain damage. Your parents will have the right to sue in tort for all of your medical expenses



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that they will have to pay. You will have the right to sue in tort for pain and suffering. The state may even step in and press criminal charges against the stranger. These are your rights under state tort law. How grand that you -- a child -- are treated as an adult with all those legal tort rights and privileges.

Now imagine being three years old and wetting your pants. Your parents, for punishment, do the same thing to you that the adult stranger did. Because you were stupid enough to allow yourself to be born to these parents, you have no right to sue in tort for pain and suffering. The parent/child immunity doctrine protects your parents from suit in most states. However, in *Doe v. Holt*, 379PA91 (July 1992), the North Carolina Supreme Court upheld the right of two unemancipated children to sue their father for damages resulting from eleven years of rape and incest. In fact, the court held that the parent/child immunity doctrine does not bar tort claims for willful and malicious injuries suffered by unemancipated minors at the hands of their parents. HURRAH!! North Carolina, that hotbed of family values, just took a large leap to the radical feminist position. OH NO, FAMILY VALUES ATTACKED AGAIN BY A RADICAL COURT!! As for the young child in Des Moines, Iowa, who is lying in a hospital bed

fighting for life (the one with the 26 broken bones because he wet his pants) we shall have to see if Iowa will break down family values and allow the child to sue the parents.

Every six hours in this country a child dies from abuse, usually at the hands of the parents or guardians. Oftentimes there is a long documented history of suspicious injuries and hospital visits. State child protective services simply did not remove the child from the home before the tragedy. But who gets to sue the state child protective services? No one, thanks to the United States Supreme Court in *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. \_\_\_, 109 S.Ct. 998 (1989). According to Chief Justice Rehnquist, even though the Wisconsin Social workers had ample evidence that the young child was being beaten by his father, there was no requirement for the state to protect the individual's life, liberty, or property from a private actor. There were only limited circumstances in which the Constitution imposed affirmative duties of care and protection by the state to certain individuals. These limited circumstances arose when the state had assumed custody of the individual and deprived him or her of the liberty to take care of himself or herself. State child protective services were not under those limited  
to Children, p.8



from Children, p.7

circumstances when the child had not been taken from the parents because the state had not restrained the child's freedom.

HAD NOT RESTRAINED THE CHILD'S FREEDOM? What kind of freedom is this? Do we consider this situation mutual combat or assumption of risk? Can a child waive her right not to be battered or raped by parents? Where the hell is a battered child supposed to go for protection? The neighborhood gun shop? Supposedly child protective services is to protect the child from abuse because the child cannot do it on her own. What a novel concept! We place affirmative duties on adults who have

contact with children to report alleged abuse to the state protection services. But according to the United States Supreme Court battered children who fall through the system's cracks can look to state tort laws which may or may not give legal relief. Too bad if the child lives in a state that offers no tort law covering the lack of affirmative action on the part of a state agency. It is simply the little bastard's fault for being born to the wrong parents in the wrong state. If it is any consolation to Joshua DeShaney, the state is now taking care of him by means of providing special care in an institution for the severely brain damaged. BOY DO I LOVE THOSE FAMILY VALUES! And you wonder where I lost my sense of humor.

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from Class of '95, p.1

to 180 (88th to 99th percentile), 29% scored 157-161 (73rd to 87th percentile), 7% scored 155 to 156 (64th to 72nd percentile), 12% scored 150 to 154 (43rd to 63rd percentile), and 13% scored 142 to 149 (16th to 42nd percentile). The high LSAT score for the class was 174 (99.5 percentile), the low was 142 (16th percentile) and the average was 159 (81.3 percentile).

The average age of this year's incoming class is *not* high, at 25.4 years. Eighty-four percent of the class is between 20 and 29 years old, and 12% is between 30 and 39. Six members of the class (3.3%) are between 40 and 49, and one member (0.5%) is between 50 and 59.

And how does this year's incoming class compare with the two preceding it? Minorities constitute 30% of this year's class, compared with 25% in 1990 and 22% in 1991. The percentage of women also rose (47% this year compared to 41% last year) but represents a slight decline from 1990's 50%. A larger number of this year's class has an undergraduate G.P.A. of 3.5 or higher (40% this year compared with 36% in 1990 and 34% in 1991), and there has been a slight but steady increase in median and average G.P.A.s since 1990. And this year's class is, on the average, only slightly younger than the two preceding it, but 84% of its members, as compared with 78% in 1990 and 75% in 1991, are between the ages of 20 and 29.

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from Releases, p.4

of Mr. Gonzales and Mr. Villareal in funding the program and Dean Curtis in overseeing its implementation, the tutorials can only get better every year. Our thanks to all those who work so hard for the students.

### NALSA/Federalists: Columbus Tribunal

On Saturday, October 10th, 1992, at the Gallagher Theater on the main campus, from 1:00 to 5:30 pm, a variety of groups will present the Tucson Quincentennial Columbus Tribunal. A reception in the Union Club will follow from 5:30 to 7:00 for all those attending. The primary objective of the Tribunal is to raise awareness and facilitate discussion concerning the conflicting perspectives surrounding the Quincentenary. Loosely based on a trial format, expert witness testimony with cross-examination from the legal, historical, religious, and indigenous fields should offer insight into each discipline and the conflicting accounts

concerning Columbus' "discovery of the new world." All interested students, faculty, and staff are invited to attend.

Representing the Native American perspective will be experts and advocates sponsored by the Native American Law Students' Association, the Inter-Tribal Graduate Council, the Indigenous Coalition of 500 Years of Resistance, and the National Lawyers' Guild.

Representing the Euro-American perspective will be experts and advocates sponsored by the College of Law Federalist Society Chapter, the National Federalist Society, the Italian-American Club, and the Knights of Columbus.

### Arizona Advocate: Staff Meeting

There will be a meeting of old, new, and potential staff members in Room 106-S at noon on Friday, October 9th to discuss this issue and plan the next one.





new balance



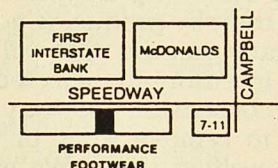
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JUST WEST OF DIRTBAGS

from Moral Standards, p.6

emphasize self - abnegation, not self-gratification. The Church has historically (and some say still) looked with disfavor at capitalist behavior: certainly nothing good could come of all this selfishness.

But something good did come of this selfishness. Capitalist societies have thrived, even as socialist societies have withered. The Libertarian Philosophy is to apply this methodology to the area of personal morality: as in the commercial realm, society and its coercive arm, the state, should step aside and let each individual maximize his own benefits as he sees fit. The aggregate good should increase, not decrease. A very good recent example of applying economic/utilitarian theory to one area of personal morality is Judge Richard Posner's *Sex and Reason*. In it he argues for a morally indifferent attitude toward sex as a way of maximizing individual, and therefore societal, good. His model, not surprisingly, is Sweden.

But utilitarian theory is only useful if you can accurately measure the variables (and ensure that all relevant variables are in the equation). I'm not sure that Posner had done that in his book. He recognizes that a measurable cost of Sweden's sexual mores is its

substantial welfare subsidies to mothers of illegitimate children, and he attempts to quantify less economically measurable costs such as venereal diseases and divorces. But I think a much larger cost of promiscuity in a heterogeneous society such as our own is familial, and therefore social, instability.

The value our society derives from stable families is their ability to care adequately for children who will become functional and productive adults. Children require enormous investments of time, money, and emotional support. The ideal parents altruistically provide for their children's needs while instilling the necessary values and discipline the child will require to function in society. Families are the best and virtually only instruments our society has to accomplish this. In times past, extended families, churches, guilds, or other informal associations may have assisted families more in this role by providing for their material needs and in turn exerting effective pressure on individuals to conform to societal norms of behavior. But the welfare state has replaced these informal actors. The last two institutions on the scene that are capable of modifying human behavior effectively are families and the state. The



question is how to properly allocate roles for each.

So in the end, mine is also a utilitarian argument: the costs to society are too large to tolerate the current level of dysfunctional behavior. Yet the costs for state action, whether increasing transfer payments, locking people up, or the loss of privacy as the state attempts to enforce societal norms in individual conduct, are also large. The optimum alternative as I see it is for the state to take measured action while encouraging the formation of stable families by indirect means, such as increasing the personal deduction, removing tax penalties for marrying, and, more bluntly, making divorce more difficult.

While I think families are superior in instilling and enforcing a system of personal morality and thereby producing good citizens, I think realistically that the state will come to play a larger role in enforcing selected norms that share a wide consensus. One way for the state to do this is to remove some of the perverse effects of the welfare state. We may generally agree that an unmarried woman is less than an optimum mother (poverty statistics support this point). But by making transfer payments to a woman with children and no payments to women without children or one with a husband, the welfare state adds incentives to, and removes costs from, behavior that society should discourage. New Jersey recently enacted a measure that disallows an increase in payments if a woman has additional children while on welfare. The hue and cry from liberals was enormous, but the statute passed judicial

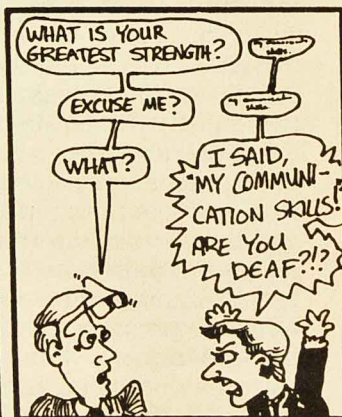
scrutiny. While in some sense the measure is arguably cruel, the New Jersey legislature recognizes that economic factors do play a part in shaping behavior.

Another example is for the state to require drug tests in order to qualify for government subsidies (including student loans). Libertarians will raise an uproar, but we know that drug trafficking (and its related crimes of violence) will not cease or diminish until we can impact the demand. I think the state does have a legitimate interest in providing economic incentives for functional behavior. The challenge is to rationally measure potential gains in decreased crime and weigh them against the cost in privacy interests. Individuals may differ on the outcome, but this is the kind of discussion we need.

The controversy over values and morality will become more politically significant as we begin to recognize that the institutions that were once capable of instilling and enforcing personal morality in the past have been unable to maintain their influence in an increasingly affluent, and therefore individualistic, society. A necessary response is for the state to become more value conscious, and to make more morality-influenced choices. Libertarians will rightfully hesitate, but as the state has displaced other institutions, I see no other realistic option. I am not espousing policing bedrooms, but prudent governmental measures which promise to positively impact current societal ills ought to be tried.

## Tomhead

By Charlie Puritano



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# Brown v. Georgia

134 Ga.App. 771 (1975)

[footnotes omitted]

EVANS, Judge

The D.A. was ready  
His case was red-hot.  
Defendant was present,  
His witness was not.

He prayed one day's delay  
From His honor the judge.  
But his plea was not granted  
The Court would not budge.

So the jury was empaneled  
All twelve good and true  
But without his main witness  
What could the twelve do?

The jury went out  
To consider his case  
And then they returned  
The defendant to face.

"What verdict, Mr. Foreman?"  
The learned judge inquired.  
"Guilty, your honor."  
On Brown's face -- no smile.

"Stand up" said the judge  
Then quickly announced  
"Seven years at hard labor"  
Thus his sentence pronounced.

"This trial was not fair,"  
The defendant then sobbed.  
"With my main witness absent  
I've simply been robbed."

"I want a new trial --  
State has not fairly won."  
"New trial denied,"  
Said Judge Dunbar Harrison.

"If you still say I'm wrong,"  
The able judge did then say  
"Why not appeal to Atlanta?  
Let those Appeals Judges earn part of  
their pay."

"I will appeal, sir" --  
Which he proceeded to do --  
"They can't treat me worse  
Than I've been treated by you."

So the case has reached us  
And now we must decide  
Was the guilty verdict legal --  
Or should we set it aside?

Justice and fairness  
Must prevail at all times  
This is ably discussed  
In a case without rhyme.

The law of this State  
Does guard every right  
Of those charged with crime  
Fairness always in sight.

To continue civil cases  
The judge holds all aces  
But it's a different ball-game  
In criminal cases.

Was one day's delay  
Too much to expect?  
Could the State refuse it  
With all due respect?

Did Justice applaud  
Or shed bitter tears  
When this news from Savannah  
First fell on her ears?

We've considered this case  
Through the night -- through the day.  
As Judge Harrison said,  
"We must earn our poor pay."

This case was once tried --  
But should now be rehearsed  
And tried one more time.  
This case is reversed!

Judgement reversed. Deen, P.J., and Stolz, J.,  
concur.





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