

# PUBLIC AFFAIRS REPORT

INSTITUTE OF GOVERNMENTAL STUDIES, UNIVERSITY OF CALIFORNIA, BERKELEY

## *The Civic Purposes of Public Schools*

*Eamonn Callan is Professor of Education at Stanford University. He was the keynote speaker at the Travers Conference on "Citizenship, Education, and Public Accountability."*

The intensity of passion now vested in that small word "public" makes it hard to talk soberly about the future of public schooling in the USA. For the friends of that institution, "public" is a word that evokes a high-minded civic spirit, and their cause is the defense of the last best hope of an embattled welfare state against the evils of what political theorist Benjamin Barber has called "a metastasizing private sector."

For the critics of public schools on the right, the associations of "public"—at least when it is not coupled with "security"—are altogether different; it conjures up images of

waste, incompetence, and the self-interest of those who connive to elude the wholesome discipline of the market.

I want to ask about the future of public schools without the distraction of preprogrammed political enthusiasms, and so I use "public" in a neutral way. Three things make public schools public, and what they make may or may not be a good thing. Public schools are more or less wholly funded by the state; they are open to the children of all who reside within a defined attendance zone surrounding the school; and they are created and operated through some combination of state and local political authority. My question is about why we should care about the future of an institution with these



Eamonn Callan

defining features. My answer is framed by a distinction between public and common schooling.

Much of our contemporary educational thought is marred by equivocation between the meanings of "public" and "common" in their application to schools. I want to stress the contingency—indeed, the weakness—of the evolving relationship between public schools in the sense that I have defined and the ideal of the common school. That ideal

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Karen Getman, who recently stepped down as Chairman of the California Fair Political Practices Commission, will come to IGS this fall as the Institute's first Executive in Residence. Getman will teach a course in the law school and write a handbook for political candidates. She was the keynote speaker at a campus IGS conference on conflict of interest. Her talk is reprinted here on page four.



## *Does Ethno-Racial Classification Have a Future in Policymaking?*

*Kenneth Prewitt, Carnegie Professor of Public Affairs, Columbia Univ.*

The vocabulary of this conference—incorporation, assimilation, mobilization, coalitions, conflict, identity and so forth—circle around the broad issue of whether ethnic and racial boundaries are being hardened or blurred. My small contribution is to remind us that the boundaries themselves owe something to ethnic and racial categories in official statistics.

The revised title of these comments recognizes that ethno-racial classification is under pressure, and we should take into account its present instability.

The first census, in 1790, divided the population into men and women, children and adults, and, of course, the

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## The IGS Center on Politics

The Center on Politics wound up its second year with a jam-packed schedule of visitors and events starting with the quadrennial review of the California governor's race (see page 19 for excerpts).

Democratic Assemblywoman **Rebecca Cohn** and Republican Assemblywoman **Sharon Runner** discussed California's budget woes, as seen from opposite sides of the aisle, at a pair of luncheon seminars. Secretary of Education **Kerry Mazzoni** drew a crowd to hear about how deep cuts in state spending will affect education. And, at an event cosponsored by the Energy Institute, **Michael Peevey**, President of the California Public Utilities Commission, described how the state plans to work its way out of the energy crisis.

Just to make sure everyone had the numbers right, the Center and the Goldman School of Public Policy brought former California Budget Director **Tim Gage** to GSPP to parse the California budget.

President Clinton's Labor Secretary **Robert Reich** dropped by for tea and stayed to muse about the political outlook for 2004. President Carter's chief domestic adviser and former Under-Secretary of State **Stuart Eisenstadt** talked about the effort to provide compensation for Holocaust victims.

San Francisco political consultant **Mary Hughes** talked about her research project on women running for governor around the

country. **Jerry Austin**, who managed Jessie Jackson's 1988 presidential race, took a humorous look at that run and handicapped the upcoming presidential race. **Larry Tramutola** talked about his book-in-progress on grassroots politics, *Sidewalk Strategies*.

*San Francisco Chronicle* Sacramento Bureau Chief **Greg Lucas** outlined the difficulties of covering a term-limited legislature. And *Newsweek* Contributing Editor and McLaughlin Group regular **Eleanor Cliff** took part in the Center's annual review of the presidency.

Working with the Associated Students of the University of California Student Action Senator Jenn Ro, the Center helped produce a conference on Asian-Americans in politics that featured Assembly Majority Leader **Wilma Chan**, Assemblymember **Leland Yee**, and State Board of Equalization Chair **John Chang**.

The Center also collaborated with the Undergraduate Political Science Association and Pi Sigma Alpha, the political science honor society, on the Great Debate, a Crossfire-style showdown between faculty on the left and right, discussing the war in Iraq, the economy, and other issues.

And, continuing its efforts to get students involved in politics, **Dion Aroner**, the Center's legislator-in-residence chaired a panel of political consultants and legislative aides on how to get a job in politics. □



Kerry Mazzoni



Stuart Eisenstadt



Rebecca Cohn



Robert Reich



Greg Lucas



Michael Peevey



Sharon Runner



Mary Hughes

## Berkeley Selects New John Gardner Fellows

Three graduating seniors at the University of California, Berkeley, have been chosen to be John Gardner Public Service Fellows for 2003-04. IGS administers the Gardner Fellowship program at Berkeley.

**Ann Bordetsky** graduates Phi Beta Kappa and with honors in May 2003. She will receive a B.S. in conservation and resources studies. Ann's passion for issues of environmental health, justice, and responsibility are rooted in her experiences in Russia. Born and raised in Chelyabinsk, a heavily polluted region, she bears a deep personal concern for a variety of environmental problems and is committed to the development of ecologically and socially responsible policies.

During the summers she has worked as a biotech intern at Bayer Pharmaceuticals and for the EPA. At Cal, she participated in Outdoor Connection, an environmental education program for Berkeley school kids. Her honors thesis focuses on the contribution of NGOs to the growth of civil society in Russia and their prospects for creating an environmental and human health protection framework within a politically volatile climate.

In the summer of 2002 Ann worked with Professor Bruce Cain of the Institute of Governmental Studies on a study of term limits and California politics and published her findings in the IGS *Public Affairs Report*.

As a Gardner Fellow Ann hopes to work for a nonprofit organization in Washington, D.C., that focuses on litigation, political advocacy, and policy development of environmental issues.

**César Moreno Pérez** will graduate with a dual degree in

political science and history. César's passion and work focus on understanding the historical context and the struggle minorities have had to endure to escape poverty to obtain social mobility. Since his freshman year, César has been involved with various organizations that address issues affecting underprivileged communities. He has worked with RAZA Recruitment and Retention Center, César Chavez Student Learning Center, and Gamma Zeta Alpha Fraternity in their recruitment and retention programs. He has particularly enjoyed working at the East Bay Asian Youth Center in Oakland as an academic tutor and mentor.

During the summer, Cesar has participated in the Public Policy and International Affairs Junior Summer Institute at Berkeley, as well as the Civil Rights Summer (CRS). While working for CRS, César interned at the Labor Council for Latin American Advancement, the Latino constituency group of the American Federation of Labor and Congress of Industrial Organizations.

As a Gardner Fellow, César wants to find a placement in Washington, D.C., to prepare him for a career as an advocate and policymaker.

**Jenny Lah** will graduate with a double major in history and political economy of industrial societies and a minor in Chinese studies. Her course work focused on international development, gender relations, and China's economic reforms. Her senior history thesis examined a women's magazine in China before and after the Cultural Revolution. She is a member of Phi Beta Kappa and Phi Alpha Theta, a history honors society.

As a member of the Cal in the Capital program, she interned at the Woodrow Wilson International Center in Washington, D.C., as a research assistant. She worked with a scholar who focused on Chinese economic reforms and privatization. In the fall of 2001, she was a research assistant for the Emma Goldman Papers Project.

Outside of academics, Jenny has been involved on campus and in the community. She volunteered for English in Action and Women in Com-

munity Service. As president of Prytanean Women's Honor Society, she helped increase membership, plan a rally for women's athletics, and increase service involvement. She also facilitated the planning of *Global Perspectives on Women and Disability*, a workshop in the Third Annual Women's Rights Conference at Cal.

Jenny hopes to use the Gardner Fellowship in an organization that is concerned with gender equity and international development. □

## IGS Announces New Travers Fellows

**Naomi Katz** is a first-year doctoral student in political science, as well as a middle-school teacher. She studies citizenship and education, especially education for empowerment of underprivileged youth. She designed the curriculum for a Young Women's Empowerment Program, which she is now teaching at Willard Middle School in Berkeley. Her other work includes related curricular initiatives in the context of the political theory that guides them, especially theory about individuals and communities.

Inspired by her autistic brother, **Jini Kim's** ambition is to work on behalf of the severely mentally handicapped. She created a listserv to allow those who care for disabled children to share suggestions. She intends to become a disability rights lawyer and activist. Meanwhile, she is involved in clinical research on the benefits of community-based services for disabled persons. Her other passions include studying classical archaeology (she has already dug in Israel and will dig again in Greece next summer), and Tai Chi.

Born in Juneau, Alaska, **Aaron Ver** is a third-year political science major. He spent his past summer in Beijing working towards fluency in Mandarin Chinese, and this coming summer he is planning to intern for Senator Stevens of Alaska in Washington, D.C. On campus he is active in the co-ed honor fraternity he helped establish. Aaron hopes to earn a law degree and pursue a career in the field of public service. □



Naomi Katz



Jini Kim



Aaron Ver

# California's Conflicts Law Is a Quagmire

Karen Getman, California Fair Political Practices Commission

This is a plea for help from the academy. The many campaign finance provisions of the Political Reform Act have generated a great deal of interest from people in academia, as well as the courts. When we have a question about campaign finance, there is a body of case law and a number of scholarly articles and experts upon whom we can call for guidance.

That is not true when we consider questions of conflict of interest. Conflicts law is far more important to the average citizen, yet has gotten little attention from academics and the courts.

This single sentence is the heart of California's conflicts law: "No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

This sentence has been on the books since 1974. It has never been changed, and when you consider that the Political Reform Act has been amended some 200 times, including substantive rewrites by no fewer than five initiatives, the fact that this sentence hasn't changed is remarkable. One might conclude the conflicts prohibition is straightforward and noncontroversial, or minor in its application.

Such thinking would be severely misplaced. Of all the laws that are enforced by the FPPC, the sentence that has the greatest impact—both nega-

tive and positive—on average citizens is this single prohibition on conflicts of interest.

A few statistics prove my point. Every government official and employee who makes or participates in making a governmental decision has to file a conflicts disclosure statement. We estimate that 100,000 Californians file conflicts disclosure statements each year. That includes 50,000 state employees, another 15,000 state and local elected and appointed officials, plus local government employees.

One hundred thousand Californians have to tell you what their personal finances are. Until recently, this included such things as disclosing whether you had a large credit card balance—even though that credit card bill has nothing to do with any conflicts. It took great effort to persuade the legislature to delete that requirement because no politician wants to vote against an ethics law.

Are conflicts our biggest problem? Not if you look at our enforcement caseload. Last year, the Fair Political Practices Commission prosecuted 147 cases for violations of the Political Reform Act. Only seven concerned any type of conflict issue; another 20 concerned late filed conflicts statements. Indeed, if you look at our records for the past six years, you'll find we prosecuted only 16 cases that directly concerned a violation of the basic conflicts prohibition.

If you look at the law from an interpretation standpoint, however, conflicts are by far our biggest problem. Each year individuals who have a question about their rights or duties

under the Political Reform Act write us asking for formal written advice. In the past three years our staff has issued almost 1,000 advice letters to individuals asking about their duties under the Political Reform Act. Well over 50 percent of those letters concerned conflicts of interest issues. The total is closer to 70 percent when you add in revolving door questions.

We get some 55,000 phone calls every year at our agency, most asking for advice on simple questions. Almost every year the biggest call month is March, when officials and employees faced with an April 1 deadline for filing their conflicts disclosure statements start calling to ask what they have to disclose, and what that means about their potential conflicts.

Can this single sentence really be so hard to understand? Well, this single sentence now has some 39 regulations interpreting it. Add to that the regulations addressing what has to be disclosed on conflicts statements, those addressing who has to file the statements, and additional regulations in the areas of postgovernmental employment restrictions and gift or travel limitations, and the total number of conflicts regulations currently on the books is 90.

And although the legislature and the initiative groups have not changed the basic conflicts prohibition, the FPPC has rewritten its conflicts regulations countless times, often swinging from one side to another in the process. Indeed, we now publish

## Conflict of Interest Generates Controversy—and Academic Attention

Christine Trost, IGS

Opening the conference he cosponsored with IGS, James Thurber, director of the Center for Congressional and Presidential Studies at American University, said the gathering was unique. Very little scholarship assessing the need for and effectiveness of conflict of interest regulation at different levels of government exists, and rarely do political practitioners and

academics meet to discuss this important subject. "This is a plea for help from the academy," said California's Fair Political Practices Commission Chairman Karen Getman in her keynote address.

Three conference panels examined the controversies surrounding attempts to define and regulate conflicts of interest in public life. Where are the loopholes



Robert Matsui

“roadmap” regulations simply to help people find the new regulations and compare them to the old versions of the same thing.

Why do we have so much trouble interpreting and applying this sentence? I think, at bottom, it is because we have never resolved the fundamental tensions inherent in the conflicts laws. That is what we need your help with.

We spent a year during my tenure reviewing and rewriting the conflicts regulations, trying to simplify and tailor them. It became apparent that we faced a series of Hobbesian’s Choices. If we interpret the law too narrowly, we risk allowing officials to vote despite a conflict. If we interpret it too broadly, we risk disqualifying officials without any real conflict from doing precisely the work they were appointed or elected to do.

If we tailor the rules to meet the specific facts of given situations, we lessen the risk

of error. But by doing so, we promulgate complex, fact-driven rules that make it difficult for ordinary citizens to know with certainty whether a particular situation presents a disqualifying conflict. Indeed, even we at the FPPC can’t always tell. One thing that’s striking when you read those hundreds of conflicts letters, is the number that end with the FPPC saying, “We don’t know for sure if you have a conflict.”

And then there is the core problem that the conflicts law results in disenfranchisement of voters, presenting a public policy dilemma for the FPPC. The best example is a case we had involving Oakland Mayor Jerry Brown, who was one of the original proponents of the Political Reform Act. Mayor Brown was elected on a platform of revitalizing Oakland’s economy through redevelopment. He pledged during his campaign to bring 10,000 new residents and 10,000 jobs to

downtown Oakland, and was elected overwhelmingly by the voters. After his election he immediately set out to do what he had promised, which is drum up new development opportunities for the downtown Oakland area.

There was one little problem, however. Mayor Brown owned property in the downtown redevelopment area. His property was large and unique, and he personally would have benefited financially from any development in the surrounding area, perhaps by quite a lot. His personal financial interest clearly would be affected by fulfillment of his campaign promise to revitalize downtown Oakland.

As we weighed that question, we tried to determine what factors should matter. Should Mayor Brown be allowed to participate in redevelopment decisions, knowing that his personal financial interests were at stake? Should that answer turn on such facts

as the number of property owners besides Mayor Brown who would benefit, and whether the benefit to him would be different in kind or degree from the benefit to others?

Should it matter that the voters knew about Mayor Brown’s property holdings when they elected him to office? One of the things he said during his campaign, quite effectively, is that he was the right person to lead the city because he lived in downtown Oakland, knew the area and had a stake in it.

When the FPPC Commissioners heard this case there were strong feelings expressed by members of the public on both sides of the issues. Some argued that the people of Oakland have the right to have their elected officials participate in important governmental decisions, and the right to elect as mayor someone who demonstrates a vital and credible interest in the local area.

and gaps in current conflict of interest regulations and how might they be filled? What is a conflict and what is not? How do public officials in other countries define and regulate conflicts of interest? How might their efforts inform the way conflicts of interest are conceived of and regulated in the U.S.? These and other questions were debated by a distinguished array of scholars, officeholders, political practitioners, and reformers.

The first panel, “Regulating Conflicts: Gaps and Loopholes at the Local Level,” was chaired by IGS Director Bruce Cain and featured Bob Stern, co-author of California’s Political Reform Act; Miriam Krinsky, president of the L.A. City Ethics Commis-

sion; James Sutton, whose clients have challenged local ethics laws in court; and San Francisco District Attorney Terence Hallinan. Panelists reviewed the origins of conflict laws in California, described new initiatives designed to strengthen conflict of interest laws at the local level, and vigorously debated the effectiveness of regulation.

The second panel, “Defining Conflicts: Campaign Consultants as Lobbyists” explored potential conflicts created when political consultants help elect and then lobby officeholders on behalf of private clients. Congressman Robert Matsui moderated the panel. James Thurber presented his research on the growth of the political con-

sulting industry and the trend among political consultants to take up lobbying in addition to campaign work.

Thurber argued that transparency, accountability and a stronger set of norms are needed to prevent conflicts. Political consultant Patrick Griffin and pollster Charles Rund discussed the perceptions, realities, and ethical implications of mixing campaign work and lobbying.

The third panel, “Mapping Conflicts Abroad: Italy, Great Britain, and Canada,” offered a comparative perspective. Gillian Peele, from Oxford University, discussed the recent shift away from a tradition of self-regulation towards legal intervention among British MPs. Andrew Stark, from the University of

Toronto, contrasted the different sources of conflicts of interest in Canada and the U.S., and showed how the mix of legal, moral, and political arguments in debate over conflicts of interest complicates efforts to effectively regulate conflicts. Sergio Fabbrini, from Trento University discussed the lack of and need for conflict of interest regulations in Italy, specifically in the case of a prime minister who owns or controls the vast majority of media outlets in the country.

Berkeley’s Shannon Stimson chaired this fascinating discussion, which highlighted the different approaches taken (or not taken in the case of Italy) to regulating conflicts of interest in these countries and the role that political culture plays in shaping these approaches. □

They were outraged that a state agency would dare come in and take away their mayor.

Others argued just as strenuously that we were crazy to even consider allowing his participation. The mayor's conflict was clear, and the FPPC had no business letting him proceed: No person, they argued, is above the law, including the mayor. Those individuals told us the conflicts laws were absolutely essential to ensuring that elected officials vote based on their conscience, their knowledge of the issues before them, and the best interests of their constituents—and not based on their pocketbooks.

Ultimately my commission told Mayor Brown that he could not participate in the redevelopment decisions because his conflict was so clear and irrefutable. But a state appellate court overturned our decision and ruled that Mayor Brown's involvement was necessary under Oakland's City Charter, despite the admitted conflict. The court allowed Mayor Brown to participate fully in virtually all important redevelopment decisions, regardless of his personal financial interest, because he is the only mayor Oakland has and the decisions involved very important public issues.

What I haven't been able to figure out is what the FPPC is supposed to do with that. The question that remains unresolved, even after the litigation, is this—from a public policy standpoint, who was right, the court or the FPPC? Should a mayor with a conflict be allowed to continue despite the conflict, because he is the only mayor after all, and people knew about it when they voted for him?

What if it turns out later that the decisions were in fact

tainted by the personal interests of the mayor? Conversely, what if the court had sided with us, and the downtown redevelopment projects had faltered, leaving the city in even greater financial disarray today?

What bothers me the most is—what's the FPPC doing making these decisions? How do we make them? What guidance do we have in making them?

Has anyone tried to address these questions? A few groups have, mostly practitioners in the field. The last one to do so was the Bipartisan Commission on the Political Reform Act, which used the 25-year anniversary of the act as a vehicle for reviewing its fundamental tenets and its application in practice. I'll quote from one of their conclusions: "The tireless efforts over the past quarter of a century to make certain that not a single potential or even theoretical conflict of interest remains hidden have created a level of complexity that is entirely counterproductive to the basic purposes of the conflict of interest provisions."

Harsh words, and not entirely deserved. But not entirely undeserved, either. Remember when I told you about the 100,000 Californians who have to file conflicts disclosure statements? They include top elected officials, local school board members and the like. But they also include Michael Neil of the city of Coronado. Mr. Neil is a school teacher and, like so many other teachers, spends his summer working a second job to supplement his salary. Mr. Neil's summer job is being the lifeguard captain at the city beach.

Someone in the city government apparently decided that Mr. Neil makes or partici-

## Former FPPC Chair and Conference Keynote to Join IGS as Executive in Residence

This fall, Karen Getman, who recently stepped down as Chairman of the California Fair Political Practices Commission, will come to IGS as the Institute's first Executive in Residence. Getman gave this keynote speech at a conference entitled *Navigating Murky Waters: Conflict of Interest and Public Controversies*. The conference was cosponsored by the Institute of Governmental Studies, The Center for Congressional and Presidential Studies at American University, UC Berkeley's Center for Campaign Leadership, and the Col. Charles T. and Louise H. Travers Program in Ethics and Accountability in Government. It was funded by a grant from The Pew Charitable Trusts.

The conference brought together a distinguished array of scholars, officeholders, political practitioners, and reformers to examine the controversies surrounding attempts to define and regulate conflicts of interest in public life. For more information on the conference please go to [http://www.igs.berkeley.edu/events/murky\\_waters\\_page.html](http://www.igs.berkeley.edu/events/murky_waters_page.html)

For more information on the Travers Ethics Program, please go to <http://ethics.berkeley.edu/>

pates in making governmental decisions—not just whether to dive in and rescue a drowning kid, but really important financial decisions, like which brand of oxygen tank to buy and keep on hand. So this summer lifeguard has to file a conflicts disclosure statement, and we have to fine him—\$200—when he files it late, even though the requirement that he file at all seems ludicrous.

I was on a panel with the head of the federal ethics office, and the chief ethics officer for Alberta, Canada. In the federal government, many more employees file, but these filings are never released to the public, so the public has no way of knowing whether a conflict exists. In Alberta, the disclosure requirements are tailored so that only the most important officials have to file. Each individual who files in Alberta gets a half hour of individualized ethics training with an employee of the ethics commission, creating a valuable educational opportu-

nity for the official. Unfortunately, that option is not feasible in California.

These aren't the only difficult questions that arise in the conflicts arena. For instance, the law requires us to look at whether a conflict is "reasonably foreseeable." One of the advice letters that came in to our office three years ago concerned a conflicts situation where the issue was whether the proposed decision would have a "reasonably foreseeable material financial effect" on a business interest of the government official.

At some point, there were seven lawyers gathered in my office, all arguing different sides of this question and unable to reach consensus. I suggested perhaps the fact that seven lawyers couldn't reach agreement meant the financial effect was per se *not* reasonably foreseeable. I lost. But then here we have Mayor Brown, with a clear uncontrovertible conflict, and we're told you have to let him vote.

Stories like this make people who work with the conflicts laws inevitably throw up their hands in frustration and say we should start again from scratch. One argument we hear a lot is that we should focus on transparency, and not disqualification. The argument goes like this: we must make sure our elected and appointed officials fully disclose any financial conflicts; so long as they do so, they should be allowed to vote, with the voters keeping close watch on whether the vote was tainted by the conflict.

There is much to be said for such a course; it ensures that the voters are not disenfranchised by our conflicts rules. We hear often from local communities who get very upset when their elected officials are prohibited from voting on the very issues that are most important to the community's residents.

We have such a case right now, where residents in a small town in the Napa Valley have come before us four times trying to convince us that their council members simply must be able to vote on downtown issues, even when they own property in the downtown area. They say that in such a small town everyone knows everyone's business, and there is no such thing as a hidden conflict. So long as everyone in town knows what the council members own and feels nonetheless they can vote their conscience rather than their pocketbooks, who are we to tell them no? That's a very tempting and simple solution.

But recently I read of a study undertaken by an economics professor at Carnegie Mellon University, who wanted to study the effects of a disclosure rule on conflicts in the business world. The professor had one group of people—"the estimators"—look at

several jars of coins from a distance and estimate the value of the coins in each jar. The more accurate the estimate, the more they were paid. Another group of people—"the advisers"—were allowed to get closer to the jars and give the estimators advice. The advisers, however, were paid according to how *high* the estimators' guesses were, rather than how accurate they were. So the advisers had an incentive to give the estimators inaccurate advice.

Not surprisingly, when the estimators listened to the advisers, their guesses were higher. The remarkable thing was that when the estimators were told the advisers had a conflict of interest, they didn't care. They continued to guess higher, as though the advice were honest and unbiased. Full disclosure did not make them any more skeptical.

Even more startling was the finding that disclosure may actually have done more harm than good. Once the conflict of interest was disclosed, the advisers' advice got worse. The professor said, "It's as if people said, 'You know the score, so now anything goes.'" He suggested that people "grasp at the straw of disclosure because it allows them to have their cake and eat it, too." Full disclosure, without concurrent prohibitions, may have the perverse effect of making decision makers more biased, by removing any self-policing in the decision maker.

The *New Yorker* magazine author who wrote about this study was concerned about conflicts of interest on Wall Street. He suggested that while "transparency is well and good, accuracy and objectivity are even better. Wall Street doesn't have to keep confessing its sins. It just has to stop committing them."

The drafters of the Political Reform Act reached a similar conclusion about politicians and government officials. And it may well be that the conclusion is just as true today as it was in 1974, when ethics in government seemed to be in such short supply. As we approach the 30th anniversary of the Political Reform Act, however, it would well behoove us to take a step back and ask whether the solution we have come up with—one sentence and 90 regulations—is really the way to go.

Are we protecting an unwary populace, or disenfranchising our voters? And what's the empirical proof on how this affects government decision making? If you ask government officials, and those who vote for them, you'll hear that the conflict will have no effect on the individual official's decision-making. However, the Carnegie Mellon study may provide empirical evidence that decision-making always is tainted by a conflict, albeit unconsciously.

It shouldn't be up to the FPPC to do this thinking alone, when it rewrites those 90 regulations a few years from now, as I have no doubt it will. The FPPC is constricted by our desire to make a workable system, and by our unwillingness to countenance behavior that the law says we must prohibit.

Nor should we rely solely on practitioners, whose own inherent bias is readily apparent. Those who have an academic interest in government ethics should study the California model, looking not just at how well or poorly the law is working in practice, but at how it should work to achieve the goals that we want, and most importantly, at what those goals should be. □

## IGS Welcomes Visitors from UK & Canada

IGS cosponsored a pair of talks with the UK Seminar and the new Center for British Studies. **Robert B. Stevens**, a former Chancellor at UC Santa Cruz, gave a talk on "New Labour and the Universities: An Anglo-American Perspective." Stevens, the former Master of Pembroke College, Oxford, is now a Fellow and Tutor at Lady Margaret Hall and a CUF Lecturer in Law at Oxford.



Robert Stevens

With the United States building up for the war in Iraq, **Alan Ryan**, the Warden at New College, Oxford, gave a particularly timely talk entitled, "Must Liberals Be Imperialists?". Ryan is spending the year on sabbatical leave at the Center for Advanced Study in the Behavioral Sciences at Palo Alto. His talk was cosponsored by IGS, the Political Theory Colloquium, and the UK Seminar.



Alan Ryan

Riding the Anglo-American wave, Canadian Consul General **Colin Robertson** visited IGS for a talk that was cosponsored by the Canadian Studies Program.

# What Do Voters Want From Campaigns?

Keena Lipsitz, Christine Trost, John Sides, Matt Grossman, IGS

Americans love to hate political campaigns. Majorities believe “negative, attack-oriented campaigning is undermining and damaging our democracy” (82 percent), “there is too much money spent on today’s campaigns” (86 percent), unethical practices in campaigns occur “very” or “fairly” often (58 percent), and “in terms of ethics and values, election campaigns in this country have gotten worse in the last 20 years” (53 percent).

Although questionable and even deplorable campaign tactics are nothing new, there is nevertheless a fairly ironclad conventional wisdom that campaigns are Hobbesian in two ways (nasty, brutish) but, unfortunately, not in a third (short). This distaste for campaigns is not surprising, given that campaigns are a notable fixture in American political life. Indeed campaigns are “permanent,” say some authors, because politicians are forever “running scared” and therefore “campaign too much” and “govern too little.”

It is increasingly difficult for the average citizen to avoid campaigns. Television in particular has made it possible for politicians to bombard their constituents with carefully crafted messages virtually around the clock. As a child who spotted Florida Governor Bob Graham at a campaign rally put it: “Daddy, Daddy, there’s the man who lives in our TV!”

Public dissatisfaction with political campaigns has produced many proposals for reform. Scholars have pitched

schemes to improve campaign finance, advocated more opportunities for citizen deliberation, and called for reforms to news coverage of campaigns. Public interest groups have these and other concerns. For example, the Institute for Global Ethics has beseeched politicians to sign “codes of conduct” that would bind them to kinder, gentler modes of campaign discourse.

Given this state of affairs, it is surprising that we have no real systematic understanding of public attitudes about campaigns and campaign practices. We know that people dislike campaigns—as virtually every poll on the subject has found—but we know comparatively little about what citizens actually want from campaigns, whether those desires are consensual, and, if not, what factors create variation within the public. Answers to these questions will speak to the potential benefits and popularity of any campaign reform proposal and help illuminate what citizens want from government more generally.

Most research on dissatisfaction with government examines attitudes toward institutions. This is, for example, the focus of the literature on trust in government. As a result, the role that campaigns play in this dissatisfaction is poorly understood, even though the event arguably most responsible for the decline in trust, Watergate, centered not on governance (à la *Iran-contra*) but on the 1972 presidential campaign. This paper is an attempt to help remedy this situation by developing a more systematic understanding of attitudes toward

campaigns. Our findings are based both on a survey of Californians conducted near the end of the 2002 gubernatorial campaign and on a series of focus groups conducted in California during the fall of 2002.

Our theoretical framework that provides expectations about what people want from a campaign—in particular, whether they want a campaign that involves more deliberation and substantive information (the goals of many reformers), or whether they want a campaign that actually requires less of them, a notion consonant with other research on public opinion towards the political process.

Our empirical analysis first assesses satisfaction with campaigns and its implications for attitudes about candidates. We push further to ascertain the kinds of campaign communication citizens want, including its tone, content, and the medium through which it is communicated. To gauge attitudes toward reform we examine respondent preferences for how campaigns should be financed. On each question, we investigate variation within opinion, in addition to aggregate public opinion, to assess whether subgroups of the public want different kinds of political campaigns.

We find mixed support for both the conventional wisdom of the reformers and the alternate view from Hibbing and Theiss-Morse. We show that opinions about campaigns vary depending on such factors as political involvement, political affiliation, gender, and ethnicity.

What does the public want from political campaigns? Answers to this question are explicit in theories of why people dislike campaigns and implicit in proposals de-

signed to remedy this discontent. The conventional wisdom, expressed by many pundits and reformers, focuses on citizen discontent with common campaign practices, especially negative television advertisements and fundraising.

In this view, citizens would prefer more discussion of “the issues” in forums that promote voter contact with candidates and civilized presentation of policy proposals. One set of reformers argues that campaigns should involve opportunities for *deliberation*, that is, for substantive interaction among citizens and between citizens and politicians that would ideally produce more learned citizen opinions and choices.

Some reformers have proposed a national “Deliberation Day” that would involve paying citizens to participate in small group discussions across the nation. Research demonstrates that one such event—a weekend of deliberation in Great Britain about issues related to crime—produced notable shifts in opinion about these issues.

A second set of reformers is concerned with the content of campaign messages and news coverage of the campaign. The intent here is to make both kinds of communication more substantive. Some researchers argue that negative political advertisements both polarize and demobilize voters. Others assert that media coverage of campaigns is excessively focused on the “horse race” to the detriment of policy debate.

The recommendations that flow from such work include reducing negativity in advertising, perhaps through codes of conduct for candidates, and improving the content of news coverage under the mantle of “civic journal-

ism.” Proposals, such as longer political advertisements and free airtime, have a similar intent. Implicit in these proposals is that the public would be happier if campaigns provided more and better information and enlisted the public in participatory forums.

Recently, however, two scholars have offered a very different vision of what citizens want from government. Applying their theory to campaigns suggests that voters want something very different from deliberation about issues. In their book *Stealth Democracy*, Hibbing and Theiss-Morse argue that citizens are dissatisfied with the government process as much if not more than policy outcomes, and that this “process gap” helps explain their evaluations of politicians and political institutions.

People object to the process because they believe elected officials do not have the best interests of the public at heart. Drawing on survey and focus group data, Hibbing and Theiss-Morse demonstrate that citizens do not want more power or more responsibility: “The last thing people want is to be more involved in political decision-making.” Rather, they would prefer a government that worked in the public’s interest without their ongoing input.

According to Hibbing and Theiss-Morse, voter complaints about governance focus on the need for less conflict, “many people are simply averse to political conflict and many believe political conflict is unnecessary and an indication that something is wrong with governmental procedures,” and less corruption, “when people are moved to involve themselves in politics, it is usually because they believe decision makers have

found a way to take advantage of their position.”

Thus, citizen dissatisfaction stems from their perception that the political process entails “minutiae, money, and malarkey.” This is especially vexing to people because they believe there is a consensus on major societal goals (e.g., a growing economy) and cannot comprehend the justification for disagreement. Hibbing and Theiss-Morse say citizens favor reforms that insulate politicians from special interests. They want a government run by nonself-interested experts, a system called “stealth democracy.”

Despite the complexity of public opinion about political campaigns, a picture of what the public wants does emerge from this analysis, and it falls somewhere between the participatory campaign envisioned by reformers and a “stealth campaign.” People want to learn more about issues, but they want such information presented to them in clear, simple ways.

People want debates and town hall meetings, but not necessarily to engage in the kind of deliberative democracy that would make ancient Athenians proud. Such events may instead serve as simpler cues about who the candidates are and what they are like as people. For the most part people want communication that is devoid of emotional appeals and manipulative imagery—the archetypal campaign advertisement—and opt for information that is presented in a frank and honest manner.

They do not want to be lied to, and they would like to get money out of politics, but pessimism and perhaps stinginess (i.e., an unwillingness to pay for campaigns themselves) makes it difficult for them to

see how this can be done. This analysis suggests that reformers will not find overwhelming support among the public for many of their proposals.

The analysis confirmed many of our original hypotheses. The politically involved were more likely to want to learn about issues, to favor interactive modes of communication, and to not support the use of personal money in campaigns. They were also more likely to be dissatisfied with the process, suggesting that familiarity does in fact breed contempt (although it is unclear what the implications of this contempt are). Thus, campaign reformers may find a foothold among the educated and politically involved.

### Values Matter

We found that values make a difference. People who value deliberation were less satisfied with the process, more likely to be in favor of interactive modes of communication, and in favor of public finance. As hypothesized, conservatives were more interested in learning about the character of candidates, while liberals favored public finance. We found women to be more opposed to candidate criticism, and there is no question that race matters, although the mechanisms generating this effect are unclear.

Campaigns are a key democratic moment, and thus it is troubling that people are so dissatisfied with them. But this dissatisfaction may be slightly overblown. As some of the political trust literature suggests, dissatisfaction with government—and presumably with campaigns—is ritualistic and belies an underlying faith in our political system.

The comments of one focus group participant confirm

this idea, “I wouldn’t change anything. It’s the best system in the world. And we can have discussions like this, just because of the system we have. And we can all sit here and be mean and mad about it. And I am. I hate everything about it, but it’s still the best there is.”

Even as participants expressed their dissatisfaction with the state of campaigns, they were willing to blame themselves for it. One participant, Jack, said “[W]e haven’t made them accountable ... we slowly, as constituents, have allowed it to happen ... and it didn’t happen overnight, but it happened over the last 30 years. We allowed it to happen, and now we got to bring it back.”

When a moderator asked other respondents, “who is to blame for the current state of campaigns?” Anna replied, “The sheep who do the voting ... including us, and I’m counting myself.... It’s very hard to do enough research to really get a feel for what’s going on. It’s much simpler to show up and kind of listen to what comes at you ... and make your decision because he’s got a better smile.”

By offering these comments, we do not mean to suggest that the concerns of reformers are unfounded or futile, but simply that they will find it difficult—as many of them are already well aware—to get citizens on their side.

*This excerpt is from “Poetic License for Politicians? Public Opinion about Campaigns,” a paper prepared for presentation at the 2003 annual meeting of the Midwest Political Science Association. The data were collected in partnership with the Public Policy Institute of California, with funding by The Pew Charitable Trusts. □*

enjoins us to create schools that in some important sense embody and honor the pluralism of the society they serve and are yet wedded to common educational ends that conduce to social unity and stability.

Public schools lack a persuasive civic rationale to the extent that they drift away from the ideal of common schooling. My argument for that conclusion hinges on the thesis that the civic rationale for educational provision by the state encompasses both political education and what I shall call “political legitimation.” These purposes can be construed in different ways, though I argue that appealing and widely held ideas of political education and legitimacy yield a powerful argument for the common school.

Public schools do not necessarily serve the ideal of the common school, and educational vouchers do not necessarily militate against the ideal. I claim that the battle lines in debate about the educational reform have been badly drawn between the voucher zealots and the devotees of public schooling. The fundamental issues those battle lines obscure is *how* educational reform in the public and perhaps also in the private sector might be used to revive the democratic project of the common school.

The institution of the public school and the ideal of the common school have shared beginnings in the nineteenth century. The messianic hopes with which the early school promoters championed their cause often make it hard to distinguish the institutional form from its associated ideal, and the same difficulty arises in interpreting the arguments of contemporary commentators.

But a little reflection suffices to show the importance of the distinction. Consider the following passage, extracted from a decision by the Kansas Supreme Court:

“The tendency of the time is, and has been for several years, to abolish all conditions on account of race, or color . . . and to make all persons absolutely equal before the law. . . . At the common school, where both sexes and all kinds of children mingle together, we have the great world in miniature; there they may learn human nature in all its phases, with all its emotions, passions, and feelings, its loves and hates, its hopes and fears. . . . But on the other hand, persons by isolation may become strangers even in their own country; and by being strangers, will be of but little benefit either to themselves or to society.”

Unless you have a very good ear for nineteenth-century prose, you might guess that this was written some years after *Brown v. Board of Education*. In fact, the passage comes from a decision by the Kansas Supreme Court in 1881 against racial segregation in Kansas schools, written by Judge Daniel Valentine.

The passage is useful for my purposes because it makes clear why I call the common school an ideal and why I want to distinguish it from the often sordid reality of public schooling. Although Valentine professes confidence in the impetus of American history toward political equality and comity, he is mindful that the common school as he depicts it is an object of moral aspiration rather than a current achievement. After all, the very circumstances of the case make it clear that the institutional reality of public schooling in Kansas and the inspiring image of “the great world in minia-

ture” remained remote from each other.

Valentine was writing after the legislative and judicial tide had turned decisively against federal efforts to overturn white supremacy in the South. Federal troops had been withdrawn four years earlier, and Reconstruction was now effectively at an end. These facts lend some poignancy to Valentine’s appeal to the “tendency of the times,” an appeal which says much more about his own besieged political faith than any discernible empirical truth.

Like any social ideal, the common school is open to a range of rival interpretations, and what distinguishes them is morally important. For example, the idea of a curriculum that is common and that conduces to civic solidarity is obviously susceptible to a wide range of disagreement. If what is common is simply equated with the culture of the majority or the dominant social elite, the ideal becomes a rationale for cultural imperialism and the suppression of dissent.

Much of what has been done in the name of the common school during the last two centuries has been implicated in just those evils. But the common ground we seek through pursuing the ideal can be conceived more generously and inclusively than that. And there are interesting intimations of this—I will not pretend that they are more than intimations—in Valentine’s words.

He imagines the school as a place in which the abundance of difference among students enables them to understand human loves and hates in all their rich variety and to resist the pressures to estrangement that feed on incomprehension and fear of diversity. What is

hinted at is a form of schooling we would now call multicultural: an institution in which a shared public identity can develop from a respect for the diversity of worthwhile human lives and the dissolution of divisive social stigma.

The public school is defined by who pays for its services, who has access to those services, and who determines their content and delivery. By contrast, the common school, as Valentine and others have imagined it, is defined by who actually goes there and what they learn—especially what they learn about each other—while they are there.

Public schools are not necessarily common schools. You might say that they are at least *de jure* common schools because they are open to all in the geographically defined communities they serve. But even that is false so far as those communities do not themselves constitute microcosms of “the great world” to which Valentine alludes. The pervasiveness of racial and class segregation in urban America makes it inevitable that the neighborhood school is often the racial and socio-economic enclave in miniature.

To be sure, invoking the hallowed image of the common school that embraces all future citizens is still a routine rhetorical move in the defense of public education. But our rhetoric deceives us.

The evolution of residential patterns in the U.S. throughout the twentieth century created profound spatial fragmentation along the fissures of race and class, and the trend toward segregation continues apace. In these circumstances the neighborhood school can generally be no more than the very antithesis of the common school: a mirror to one of the fragments of

a racially and economically disjointed world.

Now whether or not the flagrantly uncommon character of so many American public schools serves our best civic purposes well or badly does not follow directly from the mere distinction between public and common schools. I want to sketch, very roughly, a view of the civic purposes of education that enables us to argue persuasively in support of the common school ideal. That same view suggests that public schooling is bereft of any distinctive civic value once it repudiates the common school.

Public schools have been profoundly shaped by civic purposes since their inception. Among these, two have been paramount. First, they have been used to teach whatever knowledge, skills, and virtues were thought proper to the role of citizen. A democracy cannot survive without a people capable of self-government, and teaching whatever is needed to sustain that collective capability from one generation to another is a proper object of public policy if anything is. This is the political education function of education in a democracy.

Yet the American republic was and continues to be a *liberal* democracy in the sense that it is constitutionally dedicated to individual liberty. That being so, its public institutions could not function on the assumption that citizens were just so much raw material to be molded for the sake of a collective good that was not distinctively their own. Benjamin Rush's famous claim that schools should teach children to regard themselves as property of the state is so jarring to typical American sensibilities just because it assumes that citizens are nothing more than instruments to be

used for public ends. That is an affront to the dignity of individual citizens; that is un-American, we might say.

So it is not at all surprising that public schools have had more than a political education function. They have also conferred substantial individual benefits by teaching useful knowledge and skill and certifying those who possess them. Yet this too is a civic and not merely a "private" purpose of schooling because it is necessary to legitimate government in a society whose avowed political creed requires opportunity for all and privilege only for those who earn it on their independent merits. Within that creed, public education figures as the guarantor of equal opportunity to pursue the American dream. I call this the legitimating function of public education.

The two civic purposes of public schools I have discriminated are not necessarily praiseworthy or faithfully implemented. Imperialism and racism have sometimes passed for civic virtue there. And the political creed of equal opportunity at the root of their legitimating function has been belied in pedagogy and curriculum that mirror and perpetuate social inequalities entrenched at birth. As long as poor children lack access to decent public schools, that creed can be no more than a stupefying myth.

Yet even though the civic purposes of our schools have often been morally dubious or distorted in reprehensible ways, we can still ask what these purposes *should* be, given the best interpretation of democratic citizenship and legitimacy we can devise for ourselves. Socially descriptive and morally prescriptive discussions of the school's civic purposes are not interchange-

able. What our purposes should be might turn out to diverge a little or a lot from what they have been or what they currently are. My intention here is to contribute something to morally prescriptive discussion of the civic purposes of schooling.

For the sake of brevity, I shall make without defense or elaboration two claims about what the political education function and the legitimating function of the school should be. First, I assume that democratic rule is about the achievement of a common good that citizens come to discover or construct through open deliberation in which the voice of each is duly heeded and subject to critical assessment. Schools should prepare children for that deliberative project.

Second, I assume that to whatever extent justified social inequalities might be due to differences in educational achievements and credentials, these differences must be fairly distributed. And they cannot be fairly distributed unless they are the outcome of processes that confer at least roughly equal opportunities to succeed on everyone. Absent equal opportunity, legitimacy stands forfeit. Together these ideas give normative content to one conception of the political education and legitimating purposes of schools.

I pointed out earlier that the public school has no necessary connection to the ideal of common schooling. So we might think about two very different futures, one in which the institution drifts ever further from the ideal and one in which it draws closer. What should we say about these possible futures when we assess them on the basis of democratic inclusion and equal opportunity?

The common school bears an obvious and direct relation to the civic purposes I have specified. The diversity of its population creates a social environment in which the major fissures of the society are straddled, and so far as it creates a community of mutual respect and understanding across those fissures, it enacts the aspiration to inclusive democratic deliberation.

And in so doing they also secure what may be the only truly reliable way of approximating equal opportunity against the pull of race and social class. If we know anything about equalizing educational opportunity by now, it is that we should be extremely surprised ever to find it whenever classrooms are racially and socio-economically segregated.

But suppose the future of public schools is one that has little to do with the common school. In that event, would democratic deliberation and equal opportunity still give us reason to care about the institution? Some reason perhaps, but not much. Recall that once we divest the concept of public education of some of its emotive overtones, we are left with an institutional species we can evaluate from different moral and political viewpoints.

Public schools in this prosaic sense are simply schools that are more or less entirely subsidized by the state, open to all within a designated attendance zone, and democratically governed through local and state government. I want briefly to comment on each of these three criteria.

A concern for equal opportunity clearly supports the principle that schools should be wholly state subsidized, whether they are common schools or not. There is no

other effective way to prevent inequalities of wealth outside schools from creating unequal opportunities inside. But notice that my qualifying phrase—public schools are “more or less” wholly sponsored by the state—does much to dampen egalitarian enthusiasm on this point.

Public schools would be a severely endangered institutional species if we could not count as public those that rely on parents and local benefactors to supplement state sponsorship. Since the ability to mobilize local resources will vary with the wealth of the surrounding community, unequal opportunity is the predictable result.

No doubt the growth of state-supported alternatives to public schools could further weaken commitment to equal opportunity in the civic culture. That is a plausible surmise. But if it turned out to be true, it would warrant egalitarian support for the public school only as the lesser evil so long as current inequalities in public education persist.

The principle of universal access to public schools is clearly important because it means no children can be denied an education merely because they are hard to teach. But guaranteed access to a neighborhood school is not a necessary condition of a decent education, and it is certainly not sufficient, as the many utterly deplorable neighborhood schools so amply demonstrate.

This takes us to the third criterion of public schools: their governance through some combination of state and local control. For many supporters of public education, this will seem to be the cardinal issue. Whether we have common schools or not, a system of public education under

any democratic regime is part of the self-rule of a sovereign people, and therefore, an institution to be cherished so far as we cherish democracy itself.

But this is confused reasoning. A system of public education will indeed be part of self-government once it exists within a polity that has some democratic credentials. Yet so too will be the regulation or sponsorship of private schools under any such regime. If the bare fact of democratic control bestows the nobility of democracy on public education, it must do so as well on any private system subject to democratic government, and therefore, democracy can furnish no basis for choosing between a public and a publicly regulated private system.

Of course, a significant difference is that schools are ruled directly by agents of the state in a public system but not in a system that is merely state regulated and funded. Yet democracy on no attractive interpretation entails that institutions are *a priori* better when agents of the state rather than others run them. The ideas of democratic deliberation and equal opportunity certainly entail no such thing. For example, democratic inclusion would compel us to prefer a private school that embodies the common school ideal to a public school that does not; and if and when private education contributed to equal opportunity, its contribution would in no way be diminished by the private character of the institution.

I suspect that the residual attachment to public education derives from the tradition of democratic localism to which it is wedded in the U.S. But if we are to assess localism’s merits according to the norms of inclusive democratic deliberation and equal opportunity,

our judgment must be at best ambivalent. And the negative side of the ambivalence is due to just those social forces that have made localism and common schooling so often incompatible.

The suburbanization of America in the postwar years, along with the continuing pressures of white flight, have produced a world in which the most conspicuous recent accomplishments of democratic localism have been vehement opposition both to interdistrict busing and to court-mandated policies to equalize the distribution of educational resources. The norms of democratic inclusion and equal opportunity require us to think about localism as we find it in the world we inhabit, irrespective of its mythic status in the history of democratic education. Seen in that light, localism is not a thing to be prized in itself; it is the means to

democratic ends, and in its current incarnation, a woefully inadequate means.

The ideal of common schooling embodies norms of inclusive democratic deliberation and equal opportunity that are integral to American civic culture. The future of public schooling may carry us ever further from that ideal, and if it does, those same values will give us little reason to care about public schooling.

Perhaps the pressure to placate critics and compete with educational providers in the private sector will give us better public schools by civic as by other criteria. But a reasonable worry is that all we shall get are schools better adapted to the exigencies of a radically atomized social world in which fears of downward social mobility and the desperate hope to move upward are the only engines of learning. □

### *IGS Launches a Legislative Roll-Call Website*

The Institute of Governmental Studies and the Institute of European Studies have created a new web site—<http://voteworld.berkeley.edu/>—to help researchers access voting records from legislatures and international organizations. Called VoteWorld, the website will archive, maintain, and distribute datasets of roll-call votes from legislative bodies around the globe.

VoteWorld will first bring online the United States Congress, the United Nations General Assembly, and the European Parliament. Next up will be national legislatures from around the world and American state legislatures. With VoteWorld, individuals will be able to display the votes on an issue, such as the impeachment of President Clinton, on a map of electoral districts or states.

Alternative views will display votes in terms of the ideological orientation of nations or legislators. The entire database will be easily searchable. VoteWorld seeks to make the political process more transparent and accessible to the general public.

The new site includes roll call data for the U.S. Congress, a bibliography of published literature that uses this kind of data as part of its analysis, and a list of international advisory board members associated with the project.

For more information, contact Heddy Riss: [hrriss@uclink.berkeley.edu](mailto:hrriss@uclink.berkeley.edu).

# Special Report on Undergraduate Research

## Governor Becomes the Legislative Gatekeeper

Christina Wong, UCB

### Hijacking Is on the Rise in the California Legislature

John Cross, UCB

Many observers have noted an increase in the number of bills that are hijacked as they make their way through the California Legislature. Also called gut-and-amending, hijacking is the act of commandeering a bill (whether it be with the author's permission or not), removing all existing bill text, and substituting whatever language is desired. This allows the bill to skip the committee process in the second house it visits, and completely avoid the house where it was originally introduced. This study shows that the frequency of hijacking has risen in California, perhaps because of the implementation of term limits.

The process that I used to collect this data involved reading the subject line of every version of every bill that made it to the second house. Bills that were never passed on to

the next house were eliminated because the opportunity to bypass a complete legislative body never arose. If, in any of the amended versions, the subject line on the bill completely changed the section of code it changed, it was flagged as a qualifier. When these were all collected, the actual text of the bill at that point was scanned to see if a vast majority of the language had been changed (nonpolicy statements, such as urgency clauses, that said nothing about the subject were ignored). Whenever the bill had almost completely changed its language (meaning that the current version of the bill was full of added and deleted text, none that was visibly from the previous version), it was classified as being a substantive qualifier (a hijacked bill).

There have been noticeable and significant changes between the two sessions. Dur-

ing the 1993-94 session, the percentage of hijacked Assembly bills (ABs) and Senate bills (SBs) out of the total introduced was fairly similar; two years later this proportion was leaning towards ABs, meaning that the Senate (which is the house in which ABs can be hijacked) had been doing it more often. The Assembly essentially did not change how often it hijacked bills, especially if you look at the actual number of times it happened as opposed to the percentage. The Senate percentage nearly doubled, and the actual number rose significantly as well.

Moving on to passage rates, I look at the passage rates for all hijacked bills. It is important to point out that the difference for SBs between 1993-94 and 1997-98 is not statistically significant, and therefore is essentially the same. Table 3 shows similar results to just the number of substantive bills total. While the Assembly remains at about the same level, the Senate again nearly doubles. □

Ever since Proposition 140 passed in 1990, amending California's constitution to limit the number of terms that legislators can serve in the State Assembly and Senate, there has been controversy about whether or not term limits has been beneficial or detrimental to California's Legislature. Proponents of term limits believe that limits increased legislative accountability, effectiveness, and responsiveness by diminishing careerism and incumbency advantages.

Opponents of term limits claim that limits filled the legislature with inexperienced members who write ineffective and haphazard bills. This paper addresses the debate by examining how term limits have affected "gatekeeping" in California's policy committees. Gatekeeping occurs when a committee does not pass a bill that is referred to it, effectively killing the measure.

I address two questions about how Proposition 140 has affected this powerful tool that committees use to control the legislative agenda:

1. Has term limits weakened gatekeeping by committees?
2. What causal mechanism can account for any change in gatekeeping?

This study tracked votes, amendments, and passage rates of 960 bills introduced in sessions held before (1979-1980) and after term limits (1999-2000). The two sessions were both held under unified Democratic control, which means the executive branch was of the same party (Democratic) as the majority of both houses of the

**Table 1**  
Bills Examined and Identified as Hijacked

	Senate Bills 1993-94	Assembly Bills 1993-94	Senate Bills 1997-98	Assembly Bills 1997-98
Total Introduced	2138	3838	2242	2817
To 2 <sup>nd</sup> House	1422	2395	741	1813
Qualifiers	214	336	142	377
Substantive	56	119	51	162

**Table 2**  
Substantive Hijackings

	1993-1994	1997-1998
SBs (Assembly action)	56 (2.6% of total)	51 (2.3% of total)
ABs (Senate action)	119 (3.1% of total)	162 (5.8% of total)

**Table 3**  
Substantive Hijackings that Pass

	1993-1994	1997-1998
SBs (Assembly action)	34 (3.3% of total passed)	29 (3.1% of total passed)
ABs (Senate action)	57 (3.6% of total passed)	87 (7.9% of total passed)

legislature. We analyzed 30 Assembly bills and 30 Senate bills assigned to four committees in each house, both before and after term limits.

Table 1 shows that gatekeeping drastically decreased after term limits. Both in the Assembly and the Senate, the percentages of bills that died in their policy committees decreased by an average of 14 percent from before term limits to after term limits. The Assembly committees killed

by being vetoed *increased* by 17 percent. This drastic increase in the governor's vetoes, alongside a decrease in bills dying in their policy committees, suggests that committee gatekeeping has weakened while the governor has become the new "gatekeeper."

One reason that term limits may have weakened gatekeeping is that inexperienced legislators do not have the expertise to weed out bad bills; fewer bills die in policy

"wimp out" on killing fellow legislator's bills. The basis for the "wimping out hypothesis" is the belief that term-limited legislators will pass bad bills out of policy committees because they will not have to consider the long-term consequences of bad policy. They may also pass bad legislation because new legislators make more deals with each other to help pass one another's bills because they are more concerned with higher batting av-

Members of both houses face the same shortened time horizons that create an incentive to be charitable toward their colleague's imperfect bills (in other words, to wimp out). So to determine whether the level of expertise of the members or their time horizons influence gatekeeping, I compared the actions of Assembly committees with those of Senate committees.

The data suggest that inexperienced legislators may be the cause of the weakened gatekeeping. Table 2 shows that the percentage of Assembly bills that die in an Assembly policy committee has decreased by 30 percent, from 38 percent before term limits to eight percent afterwards. This shift shows that Assembly policy committees have passed far more Assembly bills out of committee after term limits.

To confirm that it is the lack of expertise in the Assembly that weakens gatekeeping, I looked at how many Senate bills died in Senate policy committees. The Senate has fewer novices in the chamber because of nonlinear political careers and staggered elections. Therefore, more experienced Senators in Senate policy committees should kill more Senate bills because they have the expertise to weed out the bad bills.

As Table 2 shows, the portion of Senate bills dying in Senate policy committees only decreased 12 percent from 33 percent to 21 percent. Gatekeeping in Senate policy committees has declined, perhaps due to a moderate wimping out effect, but the decline has not been nearly as great as in the inexperienced Assembly. This pattern is also reflected in the actions of governors.

Table 1 shows that the number of Assembly bills vetoed after term limits has *in-*

Stage	Assembly		Senate		Overall	
	1979-80	1999-2000	1979-80	1999-2000	1979-80	1999-2000
In their policy committee	25%	8%	23%	13%	25%	10%
In other committees	5%	8%	21%	12%	13%	10%
In the other house	7%	9%	7%	9%	7%	9%
On the floor	0%	3%	3%	0%	1%	1%
Vetoed	4%	20%	3%	20%	3%	20%
Assembly bills vetoed					40%	58%
Senate bills vetoed					60%	42%

fewer bills (eight percent) than the Senate (13 percent), and had a greater decrease in the percentages of bills killed.

Comparing the percentages of bills that die in their policy committees to the other stages where bills can die further demonstrates that gatekeeping has become weaker after term limits. Table 1 shows that before term limits, the largest percentage of bills died in their policy committees. After term limits the largest percentage of bills died by the governor's veto pen.

After term limits, the percentage of bills that died in their policy committees *decreased* by 14 percent, while the percentage of bills that died

committees because bad bills pass out of the committee. The preterm limits legislature would have a strong gatekeeping mechanism because

**Table 2  
Gatekeeping in Policy Committees  
Percentage of bills that die in Policy Committee**

	1979-1980	1999-2000
Assembly	38%	8%
Senate	33%	21%

its committees would be composed of experts who could weed out bad bills.

An alternative explanation of weakened gatekeeping might be that term limits makes legislators more likely to

erages to build up legislative accomplishments quickly.

So what has caused this clear and significant decline in legislative gatekeeping? Term

limits have caused the Assembly to have constant turnover in its membership, increasing the number of inexperienced legislators, while experience levels in the Senate have remained relatively stable.

creased by 18 percent, while the percentage of Senate bills vetoed after term limits has decreased by 18 percent. Thus, the governor is vetoing more

bills written by inexperienced Assemblymen, while signing more bills written by experienced Senators. □

## Increased Amendments in California Legislature Make a Case for—and against—Term Limits

Matt Abrams

The effects of term limits on the California Legislature have been hotly debated by Proposition 140's advocates and opponents. Advocates argue that term limits have brought newer, more accountable legislators who are more enthusiastic about fulfilling their responsibilities. Opponents argue that term limits have brought inexperienced legislators who write poorly crafted bills and have trouble checking the power of the governor.

This study looks at 960 bills from before (the 1979-1980 session) and after (1999-2000) the implementation of term limits in the California Legislature. After collecting data on the legislative histories of these bills, I looked for significant shifts in behavior of the legislators by looking to see if shirking increases or decreases after term limits, tallying up the frequency of amendments to bills before and after term limits, and calculating the success rate of

proposed bills in the legislature.

The term "shirking" is used to explain the failure of legislators to fulfill their obligations to attend legislative sessions and vote on bills. I calculated shirking by counting the number of yes and no votes on the floor before and after term limits to see if attendance has increased or decreased after term limits.

A comparison of the mean sum of yeas and nays as a percentage of the total number of legislators in each house shows a 0.6 member increase (from 73.8 to 74.4 members) in average attendance in the Assembly after term limits and a 4.2 member increase (from 32.5 to 36.7 members) in the Senate. As these numbers show, there is a significant increase in attendance after term limits, which supports the theory that shirking is decreased with the advent of term limits.

One of the central arguments of the antiterm limit po-

## IGS Director Bruce Cain Wins Undergraduate Research Mentoring Award

The College of Letters and Science at UC Berkeley has given IGS Director Bruce Cain an award for Distinguished Research Mentoring of Undergraduates. The letter informing Cain of the honor notes, "With this award the College recognizes faculty members who have created extraordinary research opportunities for students beyond the classroom, and who have devoted unusual time and effort to encouraging, challenging and developing undergraduate researchers."



Bruce Cain

The student researchers are drawn from Cain's course on California Politics, Political Science 171. Writing in support of his nomination, one student wrote that Cain has "a rare talent for hands-on mentorship that does not stifle independence of thought or personal development." Other students wrote in praise of Cain's generosity with his time and his patient, thoughtful guidance.

As political science chair Judith Gruber noted, Cain not only creates unusual opportunities for undergraduates to work on projects of real-world significance, he sees to it that the best of their work is published.

Each spring, the *Public Affairs Report* publishes several of the best research papers from Cain's students. We are pleased to present here examples selected from the work of this year's students.

sition is that inexperienced legislators write poorly crafted bills, and this causes an increased necessity to amend legislation. Table 1 shows the average number of occasions upon which a bill's author, the committees that heard the bill, and the floor of each house made amendments.

As Table 1 demonstrates, there has been an average increase of 0.81 in the frequency of amendments made to bills after term limits. In the Assembly, this increase is more dramatic with an average of 0.86 while the Senate amends bills on 0.76 more occasions.

This increase could reflect a few different trends in California's legislative process. Term limits advocates might say that the increase in amendments after term limits proves that members are more focused on amending and producing good legislation. By contrast, term limits opponents would argue that the increase in amendments shows that newer, inexperienced legislators are writing more bad legislation that needs to be amended. □

**Table 1**  
**Frequency of Amendments at Various Stages of the Legislative Process**

Origin of Amendment	Mean Number of Amendments					
	Assembly Committees		Senate Committees		Overall	
	79-80	99-00	79-80	99-00	79-80	99-00
House of Origin						
By Author	0.66	0.75	0.82	0.91	0.74	0.83
By Policy Committee	0.47	0.43	0.42	0.50	0.45	0.47
By Other committee	0.33	0.38	0.24	0.46	0.28	0.42
By Floor	0.16	0.24	0.11	0.19	0.13	0.21
In the Other House	1.29	1.89	1.43	1.75	1.36	1.82
Total Amendments	2.31	3.17	2.55	3.31	2.43	3.24

civil status of free and slave. These classifications were directed to knowing the size of the population group that mattered—adult, white males, that is, those eligible to own property and pay taxes, to vote and hold office, and to serve in the military.

Of course there was another reason for the distinction between free and slave. Including slaves in the census counts, even at three-fifths, rewarded the South with more congressional seats than a count limited to its white population would have provided, and this “slave power” helped win ratification.

We take from the 1790 census a larger lesson. To divide the population into its several race groups was unquestioned. The categories could change, but not the need of the classification itself.

In 1820 “free colored persons” was added to the census form. After the Civil War, interest in shades of color led the census to classify people as mulatto, quadroon, and octroon. Asians began to appear in census categories around the same time. Chinese and Japanese, reflecting a long-standing confusion between race and nationality, were counted in 1890.

Filipinos, Koreans, and Hindus (here confusing religion with race) appeared on the census form in 1920. Un-

til 1930, Mexicans were counted as white, but then in 1930 were separately counted as a race, only to be quickly dropped when the government of Mexico complained. Hawaiian and part-Hawaiian appear on the 1960 census form, as do Aleut and Eskimo. Hispanic origin appears in 1980 and in every census since, though treated as an ethnic rather than racial category.

State-sanctioned discrimination is the central racial narrative buttressed by the classification. Essentially this is a story of relatively open external borders, to import labor, but closed internal borders, to exclude inferior races from citizenship and civic rights. This was radically challenged in the 1960s, when the civil rights revolution accepts that racial classification is necessary for policymaking, but redirects its uses.

### Statistical Proportionality

Where earlier policies had been discriminatory, new civil rights policies would right those wrongs and benefit groups that had been “historically discriminated against.” Belonging to a racial minority becomes a basis from which to assert civic rights. In this task statistical proportionality became the favored legal and administrative tool.

Soon, the nation was enmeshed in a new form of politics. Equal opportunity be-

comes proportionate representation. Disparate impact gains an important place in legal reasoning. Institutional racism enters the political vocabulary. Individual rights came to share political space with group rights.

Accompanying this shift in vocabulary and focus was a broadened understanding of civil rights, which was quickly adjudged to be about more than redressing the legacy of slavery. It was about all “groups historically discriminated against”—Native Indians, Hispanics, and Asians. Civil rights became minority rights, and references to black-white were supplanted by references to people of color. Even this was too narrow a construction. The minority rights revolution encompassed other groups historically discriminated against, in particular, women and the disabled.

Statistical proportionality was central to this steady broadening of the civil rights agenda. How do we know if a society is just? We ask what groups are underrepresented in colleges and universities, in the better jobs, in winning government contracts, in home mortgages, in elected office. When the underrepresented are minorities, discrimination is indicated.

But the expansion of civil rights was not finished. Discrimination is discrimination, whether it has historical roots or not. Social justice remedies should be available to any persons whose ascribed characteristics deny them access to education, health care, employment, or bank loans. It is at this point that claims by recent immigrants enter the picture.

The census racial classification system that gave rise to statistical proportionality as a juridical and administrative tool had a small number of dis-

crete categories—white, black, Indian to which was added Asian and then Hispanic as an ethnic category. But with the census classification scheme steadily accumulating more policy weight, the categories themselves could hardly be left to chance. There emerged a “politics of classification,” which drew fresh energy from multicultural identity politics. These politics brought many advocacy groups to issues that had generally been the preserve of statistical agencies.

Fueling these politics is a broad public question. Why do we have an official ethno-racial classification?

Early in America’s history, the answer was clear. The classification made the society legible in a manner that buttressed discriminatory and exclusionist policies. Even as those purposes were radically altered, the clarity remained. In the wake of the 1960s, it was historical wrongs and ongoing discrimination that were rendered legible. This clarity has faded in response to two recent developments: immigration and multiracialism.

### Immigration

Initiated by a 1960s shift in policy that rejected national origin quotas and favored family reunification, political refugees, and skill-based criteria, the late 20th century immigration surge led to shifts in the regions of the world sending immigrants to the United States. Asians and Latinos arrived in large numbers. These patterns show no signs of reversal.

To state the obvious, current immigration flows—and not only to U. S.—bring immigrants who are racially, culturally, linguistically, ethnically, and religiously unlike

This talk by Kenneth Prewitt, “New Americans and the Diversity Initiative,” was the keynote for a two-day conference entitled “A Nation of Immigrants: Ethnic Identity and Political Incorporation” sponsored this spring by IGS with generous support from the UC Berkeley Office of the Vice Chancellor for Research. Prewitt, Carnegie Professor of Public Affairs, Columbia University, was director of the United States Census Bureau until January 2001. His talk and other conference papers are available online at: [http://www.igs.berkeley.edu/events/nation\\_of\\_immigrants.html](http://www.igs.berkeley.edu/events/nation_of_immigrants.html).

the populations of the receiving countries.

Ethno-racial categories cannot easily accommodate ethnicities and nationalities not in mind when they were fixed decades ago. Policymakers and statisticians are being pressed by ethnic lobbies, demographers, and indeed common sense to provide data that allow for meaningful generalization about America's diverse groups. There is now an active, self-conscious politics of sorting and classifying.

For example, the Census Bureau presently has five active race and ethnic Advisory Committees, representing groups historically discriminated against: African-Americans, Asians, Hispanics, Native Hawaiians and Pacific Islanders, and Native Indians. Will immigrants from the Middle-East, Central Asia, or Islamic Africa, find their way into this pre-existing structure or will they argue for their own committees? And how many such committees?

Today's immigrants, or their leaders, take for granted that categories will not be determined by distant government agencies but will result from advocacy and agitation. The resulting political ferment is one factor de-stabilizing the present classification system.

### **Multiracialism**

The second factor is the long-delayed recognition of multiracialism. As recently as 1990 every resident of America, according to the census, was one of two ethnic groups: Hispanic or Non-Hispanic; and one of four primary racial groups: White, Black/Negro, Native Indian/Native Alaskan, or Asian. In the 2000 census the four primary categories became five. Responding to

political pressure, Native Hawaiian/Pacific Islanders were separated from the Asian category. Though this change might seem insignificant, it is indicative that classification is now a moving target.

The more far-reaching change in the 2000 census was, of course, the multiple-race option. A person can be two or more of the primary racial categories. "Mark one or more" converts six categories into 63, which when cross-tabulated by Hispanic/Non-Hispanic generates 126 categories.

The multiple-race option was not heavily used in 2000, and agencies that enforce non-discriminatory laws accommodated the expanding number of racial categories by devising collapsing rules. No major disruptions in political/administrative conditions occurred.

The short-term public and political response to the multiple-race option does not, I suggest, adequately predict what is in store for the United States. Self-identification as multiracial will increase, partly as a result of social legitimation, especially among the young but also resulting from increasing rates of marriage across racial lines. Beyond this, there will be continuing pressure to expand the number of primary groups in the classification system.

On what grounds does the federal statistical system declare that enough is enough? To have gradually moved from three to four, five, and then, radically, to 63 separately measured race groups is to acknowledge that there is no natural limit.

I suggested earlier that there was a generally agreed upon answer to the basic question: why do we classify by race and ethnicity. Its purpose was to make the society leg-

ible in ways that facilitate public policy. For the last four decades, the policies that have owned racial classification have, of course, been those associated with voting rights, affirmative action, and related social justice measures focused on redressing historical discrimination.

This "ownership" is now being challenged. The advocates for the multiracial item, and for expanding ethno-racial categories start from a different place. For them, the categories are about the assertion of social identity. If this makes the classification less useful, or perhaps even useless, for race-sensitive policies, that is the price to pay for the right to be recognized for what one is.

In 1997 congressional hearings reviewing whether to introduce a multiracial option, the two sides were clearly stated. Traditional civil rights organizations stressed the responsibility of government to police discrimination. The new advocates for multiracialism countered that to force them into a box that did not reflect their true identity was to deny them their civil rights.

The NAACP held that the "creation of a multiracial classification might disaggregate the apparent numbers of members of discrete minority groups, diluting benefits to which they are entitled as a protected class under civil rights laws and under the Constitution itself."

A Latino spokesperson noted that though identity claims "strike a responsive chord with the Latino community" the "purpose of the Census is both to enforce and implement the law, and to inform lawmakers about the distinct needs of special historically disadvantaged populations."

The counter-argument, as voiced by the Association of Multiethnic Americans, was explicit: "We want choice in the matter. We want choice in the matter of who we are, just like any other community. We are not saying that we are a solution to civil rights laws or civil rights injustices of the past. But I find it ironic that our organization and our people are being asked to correct by virtue of how we define ourselves all of the past injustices of other groups of people."

The purpose of ethno-racial classification is no longer confirmed only by its use in enforcement. A second purpose is to be served—choice, expression, identity—and this points to a proliferation of categories. As Jennifer Hochschild asked: who would have expected that stodgy data collection agency, the Census Bureau, to be a leading force for deconstruction.

The introduction of multiracial in official statistics is not the end of the story, and we turn briefly to two further developments that greatly complicate the future of ethno-racial classification. One is indicated by the Racial Privacy Initiative and the second by the growing reference to diversity.

### **The Racial Privacy Initiative**

The Racial Privacy Initiative will appear on the 2004 California ballot: "The state [including all political subdivisions or governmental instrumentalities] shall not classify any individual by race, ethnicity, color or national origin in the operation of public education, public contracting, or public employment."

The initiative illustrates the tension between enforcement and identity as reasons to

classify by ethnicity and race. Enforcement advocates vigorously battle the initiative by asserting that it denies government the tools it needs to detect and police discrimination. Ironically, however, the initiative's fortunes are bolstered, even if inadvertently, by those who advance identity claims. Because category proliferation undermines enforcement, the backers of the initiative argue that because enforcement is anyway weakened it is time to search for less obnoxious ways to police discrimination. In fact, given a choice between the narrow, fixed racial classification used in civil rights enforcement and the category expansion reflected in the multiracial option, the initiative leaders quickly endorse the latter.

### The Diversity Agenda

The diversity vocabulary, widespread in higher education and corporate America, is the end-point of a half-century process that steadily broadened the civil rights language, which as noted starts with a focus on slave descendents, is broadened to encompass people of color, and then again to all groups historically discriminated against, and on to any group experiencing discrimination, and finally to the generalized notion of any group underserved or underrepresented. Diversity is the natural next step.

Consider first how the term "diversity" is used in higher education. Claims to diversity invariably start with reference to groups historically discriminated against. But higher education does not stop at this point. The diversity initiative is about much more than compensating for patterns of historic discrimination.

Universities claim they are diverse because they attract students from different economic backgrounds, but also from every state in the nation and, even better, from many foreign countries. Claims to diversity reference multiple religions on campus. University diversity statements often take note of lifestyles and sexual orientation.

Many move beyond demographic traits altogether, and stress how different intellectual persuasions can be found on campus. For Rutgers, to take only one example, diversity "encompasses race, ethnicity, culture, social class, national origin, gender, age, religious beliefs, sexual orientation, mental ability and physical ability."

Even institutions self-defined by the absence of diversity on one or another dimension are eager to embrace it on other dimensions. A historically black college prides itself on a "student body characterized by diversity," which it describes as having students from "almost every state in America, but also West Indies, Caribbean, Puerto Rico." A women's college offers that it is "a multicultural community, students come from all over the world, from different cultures and backgrounds."

University diversity statements reflect a continuing engagement with the minority rights/affirmative action agenda, but, following Bakke, this effort has taken on a life of its own. At Harvard, diversity "develops the kind of understanding that can only come when we are willing to test our ideas and arguments in the company of people with very different perspectives." At Tufts, it "makes study on the university campus more rewarding and productive." At the University of Texas, it "pre-

pares educated, productive citizens who can meet the rigorous challenges of an increasingly diverse society and an ever-changing global community." This language displaces a social justice agenda with an instrumental rationale about what it takes to educate successfully.

Corporate America offers its instrumental rationale as well. Exxon-Mobile tells us, "By hiring people from diverse cultures and with diverse backgrounds and experiences we gain essential local knowledge and the breadth of perspective necessary for achieving our business objectives." At DuPont, "When employees offer their own diverse insights and cultural sensitivities, they open new customer bases and market opportunities." Boeing is even more direct: "We know that diversity gives us a competitive advantage."

Diversity is encompassing. General Motors notes "diversity includes race and gender as well as the broader aspects of age, education level, family status, language, military status, physical abilities, religion, sexual orientation, union representation, and years of service."

This type of rationale is echoed in the military, some of whose leaders weighed in on behalf of the U. of Michigan with the argument that national security was at stake. An ethical commitment that justified civil rights has been replaced with an efficiency commitment to better education, market share and profit, and national security.

Diversity implies a new set of policy goals, and our interest is in what this portends for ethno-racial classification. A classification rooted in diversity policy would be orders of magnitude more complex than the minority rights clas-

sification, with its attention to people of color, women, and the disabled. In the search for a diverse student body, work force, military or government agency, we might require a measurement system that reflects the dozens if not hundreds of different cultures, language groups, and nationalities represented in the fresh immigrant stream.

One possibility, then, is that the diversity logic, especially if legally protected, will push the measurement system toward more fine-grained distinctions, capturing as much diversity as possible so that we will have a denominator against which to assess progress toward the diverse work force or student body. The counter possibility is that the system will collapse, and take with it statistical proportionality, benchmarks, and counts of the underrepresented.

There are at least four political forces swirling around the present ethno-racial classification. One is the obligation to protect a classification that allows the nation to make legible the lingering effects of a very long period of racial discrimination, and to act as an early warning system of new versions of the same, perhaps directed against recent immigrants. Second, then, is the more recent assertion that the right to express one's identity, however defined, is itself a civil right in the multicultural world we now inhabit. Categories should proliferate to accommodate the many groups in our society.

Third is public confusion and, perhaps, growing discomfort with race and ethnic boxes. The confusion we know to be widespread, and to have been broadened by the multiple race option. We will get a clearer sense of the scope

and depth of public discomfort as groups mobilize for and against California's Racial Privacy Initiative. The fourth political force is embedded in the practical and analytic ramifications of shifting to the

rhetoric of diversity, especially if the diversity rationale gains a legal and policy foothold.

A classification that has too few categories for some purposes, yet too few for others, is inherently unstable. □

## Panel Critiques Bush Performance

Bonnie Azab Powell, UCB Public Affairs

The three panelists headlining a midterm review of the 43rd U.S. president's performance may have differed on some of the details, but they agreed that George W. Bush is floating on a wave of wartime patriotism—one that might easily carry him to victory in the 2004 presidential election.

The two-hour discussion, "Bush at War: The 22nd Annual Review of the Presidency," was cosponsored by Berkeley's Center on Politics at the Institute of Governmental Studies and UC Extension.

Moderated by Center on Politics Director Jerry Lubenow before a packed auditorium, the lively discussion ranged from how Bush is handling the war on terrorism (and in Iraq), homeland security, and the economy, to what competition he may face in the next election. The panelists leavened the discussion with a generous helping of wisecracks at Bush's expense.

The war with Iraq dominated much of the first hour, starting with Lubenow's question to Michael Nacht, dean of the Goldman School of Public Policy. Would the president be able to handle the peace as well as he handled the war?

"I think the Bush administration spent a lot more time

preparing for the war than the peace," acknowledged Nacht, who said the Bush administration is determined to make Iraq a showcase for democratic governance in the Middle East. "It sounds melodramatic," he said, "but it really could be a critical moment in

American foreign policy. If Bush's dreams are realized, even partially realized, it will be an extraordinary achievement."

Nacht outlined the president's policies, parrying with good humor his

two more critical copanelists—Nelson W. Polsby, Berkeley political science professor and coauthor of *Presidential Elections: Strategies of American Electoral Politics*, and Eleanor Clift, a *Newsweek* contributing editor and a regular on TV's *The McLaughlin Group*.

Both Polsby and Clift declared the United States to be no safer from terrorism after the fall of Saddam Hussein's regime. Clift wondered where the promised weapons of mass destruction were, accusing Secretary of Defense Donald Rumsfeld of "moving the goalposts" when he suggested they'd been spirited out of Iraq and into Syria.

Drawing on his 1994-97 tenure as director of the U.S.

Arms Control and Disarmament Agency, where he worked on nuclear-arms reduction and missile-defense negotiations with Russia and China, Nacht warned we could not disregard the likelihood of continued danger from the deposed regime's weapons stockpiles. "Iraq has had for many years very large stockpiles of biochemical weapons," he said, "and if that is not true, then half the intelligence community should be fired."

The panelists were more closely aligned on the origins of Bush's current popularity ratings. Before the September 11 attacks, said Clift,

"Bush was widely regarded as a one-term caretaker president. He had one bold agenda item, big tax cuts, and the country didn't seem all that enamored of him." After 9/11, she said, Bush felt "the hand of God" upon him. "Fighting the war

wrapped in the flag," said Polsby. If he were somehow to fall off the wartime-patriotism bandwagon, "all the public-opinion surveys that I've seen on all other issues suggest that he's quite vulnerable ... his father had an approval rating of more than 90 percent in 1991 and lost the 1992 election. The Bush people know this." Added Polsby, "Certainly Karl Rove knows that he's got to

keep Bush wrapped in the flag—pinned with a diaper pin."

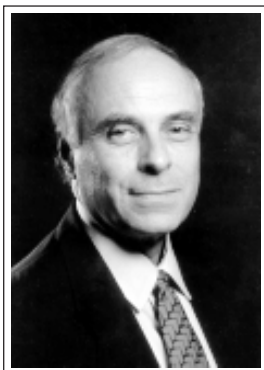
Nacht agreed that Bush would play the wartime-leader role to the hilt, a role that appeals to the "red states," or those that voted for Bush in the 2000 election.

Bush has been "anything but candid" said Clift and Polsby, suggesting that Rove and Bush's other advisers were manipulating American perceptions of threat in order to distract from domestic problems such as the economy.

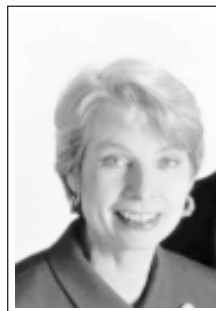
"Bush gets a lot of credit for his focus and candor," said Clift, "but he has been anything but candid about this war ... this is the first war where the wealthy have been asked to do less. I guess I missed the Oval Office address when he said it's going to be the poor, the elderly, and children whose services are going to be cut so we can afford reconstruction in Iraq."

Polsby referred to Bush's abandonment of the Kyoto Accord on global warming and his shutdown of stem-cell research as examples of "a host of issues on which the Bush administration is taking the ignominious position."

Polsby asked Nacht if he thought the president's proposed \$750-billion tax cut was appropriate, and Nacht admit-



Michael Nacht



Eleanor Clift



Nelson W. Polsby

on terrorism, ridding the world of rogue states, has taken on a missionary zeal in this administration," Clift argued, adding that the traumatized U.S. seems prepared to give Bush a long leash in fighting this nameless nemesis.

And Bush's chief campaign strategist, Karl Rove, has plans for the extra leather. The president's best chance at getting re-elected "is if he stays

ted, "I don't fully understand that. . . . Maybe he's playing to his base. But I have to believe that the fundamental premise behind it is the honest belief that supply-side economics really works. They've convinced me that they're convinced—"

"Ah, one of those faith-based programs!" interrupted Polsby, to much laughter.

When Lubenow asked Clift to handicap the Democratic hopefuls for 2004, she said that while Joe Lieberman and John Edwards couldn't be counted out, John Kerry has better commander-in-chief credentials. She saved her real enthusiasm for former Vermont Gov. Howard Dean.

Nacht agreed that Dean is running strong in these early days of the race, but cautioned that while activists like Dean tend to do well in early primaries like Iowa and New Hampshire, if Dean actually won the nomination, "He would lose very badly to President Bush in the general election unless there was almost an economic collapse."

Asked if the panel thought that this was the most radical administration of the last 50 years, Nacht replied, "I'm going to say something you're really not going to like. I think this president, with all the limitations he may offer, is a revolutionary.... And we're going to find out how successful he is.

"But [Bush's advisers] are as bold, some might say reckless, and as ambitious, some might say paranoid, as any administration we've seen. They're not interested in compromise or splitting the difference: they know what is right, they think they have the cards to win the game, and they're going to play them now."

*This article originally appeared in the Berkeleyan.* □

## The Tale of the Tape

*One of the turning points in the Republican gubernatorial primary last year was a pair of ads run by the Davis campaign. The first charged that Riordan, who claimed to be pro-choice, was pro-life. The second featured a clip of Riordan saying he thought abortion was murder. Riordan had denied the existence of the clip; his campaign staff was caught by surprise; and his campaign went into free fall. The following exchange is an edited transcript of a discussion of the ad featuring Davis campaign aides David Doak, and Garry South, Riordan staffer Kevin Spillane, Jeff Flint of the Simon campaign, and moderators Amy Chance and Mark Barabak. The full text of the primary campaign analysis will be published as part of IGS' fourth annual review of the California governor's race due out this fall.*

**DOAK:** We had always assumed the abortion thing was something we would use as a flip-flop in the general. And I was on the phone one day with Ace Smith, and Ace said, "You know, we could kick him on abortion," because we were thinking about just snapping the numbers back. And that caused me to start thinking about using the abortion thing. And the more I thought about it, the more I thought it was a perfect trap, because he can't get out of it. If he publicly says he's pro-choice, it puts him at odds with the Republican base. If he sits back and lets us paint him as right-to-life, which would help in the Republican primary, it will kill him for the general. Remember when you were a kid and you had these Chinese handcuffs you put on your fingers

and the harder you pull, the tighter it got? That's sort of the way I thought it was.

But the second piece of it, which was very important, was not using the tape first. Our strategy was to lay out the first attack, to accuse him of being pro-life, and then to save the tape as the counter-punch. We thought he'd come back with an ad that would say, "No, no, I'm pro-choice."

**BARABAK:** Kevin, there was a decision in the Riordan camp to go up with a negative spot, and rather than respond they put up an ad that had been in the can, sort of a generic, "He's attacking me, and he's such a bad guy." Why wasn't there a direct response to the abortion attack?

**SPILLANE:** There were other ads that went before the abortion ad. And our polling showed they weren't having a huge impact. It was the abortion ad that had the most dramatic impact. If you look at the primary results, you'll see that Riordan not only lost badly throughout the state, he lost badly in the Bay Area. So we lost not only pro-life voters, we lost pro-choice voters. And a lot of moderate Republicans didn't end up supporting Riordan.

They wanted us to say, "I'm pro-choice." And the argument was not to play into their hands, but basically ignore it. In fact, saying he was pro-life was helping us in certain segments of the primary electorate.

**CHANCE:** How did you get the tape?

**SOUTH:** Well, in 1993, in the runoff between Mike Woo and Dick Riordan, a friend of ours in Beverly Hills called and said, "You know, I just saw a TV show, where Dick

Riordan equated abortion to murder." This half-hour program with him had been taped in 1991, before he had ever gotten into the mayor's race. It was a local access cable channel program on the Beverly Hills cable system, whatever that is, where this woman would try to get celebrities, or semi-celebrities, or would-be celebrities to come on the show, and she would interview them for half an hour. And because Riordan was a philanthropist and all that, she had him on the show. And the cable system decided to re-air this thing in 1993, when he got into the primary. And one of our supporters, a woman in Beverly Hills, saw it, and called and said, "I just saw this amazing thing where Richard Riordan is talking about abortion being murder."

So we went to the cable system, we found out who the woman was who had this show, and I contacted her. Now, she was a young woman probably not more than 30 or 32, very nonpolitical, was very suspicious about our motivation, but she eventually agreed to go have lunch with me in

see page 22

## TRIVIAQUIZ

### Who Said . . . ?

1. "When large numbers of people are out of work, unemployment results?"

2. "A bureaucrat is a Democrat who holds some office that a Republican wants."

3. "When the President does it, that means it is not illegal."

4. "We should keep the Panama Canal. After all, we stole it fair and square."

See page 22 for answers.

By Gerald C. Lubenow

## The Hometown Boys Make Good

Howard Kurtz wrote a very interesting piece in the *Washington Post* recently that was ostensibly about how local reporters can affect a presidential race. In fact, it was a story about how press coverage of the campaign has changed over the years as a result of technology and economics.

Kurtz looked at a trio of “hometown” reporters—Glen Johnson of the *Boston Globe*, David Lightman of the *Hartford Courant*, and John Wagner of the *Raleigh News & Observer*—and the impact they have had on the campaigns of their local candidates, John Kerry, Joe Lieberman, and John Edwards. That impact, he suggests, has been amplified by political websites like The Note and the Hotline that monitor local reporting and make it instantly available to reporters everywhere. In fact, I read about Kurtz’s article in The Note and went to the *Washington Post* website to retrieve the full article.

But the impact of the Internet goes well beyond the Note and the Hotline. A host of websites now summarizes political reporting and dozens of blogs, or weblogs, posted by observers of varying expertise comment on events. Finally, the ubiquitous Lexis-Nexis ensures that every word uttered by every candidate is timeless and easily retrievable.

In a sense, technology has restored what economics had wiped out. In the Paleolithic Era of presidential politics, say 40 years ago, presidential candidates and the reporters who covered them were largely part of a comfortably insular Washington clique. As the media expanded its national reach, regional bureaus sprouted around the country. And when regional candidates arose to challenge Washington’s hegemony, regional reporters were assigned to cover them—often because the Washington press corps thought little would come of their candidacy. Thus, as a 28-year old in *Newsweek*’s Atlanta Bureau, I covered the third party run of George Wallace, and a colleague Eleanor Clift was later assigned to cover Jimmy Carter.

In the early ’70s, as San Francisco Bureau Chief, I traveled with Gov. Ronald Reagan as he laid the groundwork for his 1976 run against Jerry Ford. It was clear to me that Reagan was going to run and would be a serious candidate though wiser heads in Washington laughed at the prospect. What I and other regional reporters were able to do was replicate a pattern Theodore White had set in reporting his groundbreaking *Making of the President* books.

As James Reston wrote in his introduction to the 25th anniversary republication of Theodore White’s *The Making of the President 1960*: “Teddy White differed from most reporters in the way he looked at Presidential campaigns. He started much earlier, when the candidates had time to talk to him. He knew where they came from and what had molded them: their parents, their teachers, their political models, their records and their strengths and weaknesses.”

Unlike the later stages of a campaign, when the candidate becomes increasingly remote and inaccessible to the media, those early jaunts often consisted of Ronald Reagan, Mike Deaver, and me. We sat together on the flight, rode together from the airport, and slept in the same hotel. There was little that occurred that I didn’t have direct access to. As a result, I came to know Reagan as well as anyone—except his biographer, Lou Cannon.



In the months leading up to the primaries, I arranged for Reagan to meet with our senior editors at a private dinner in

New York. Our Washington bureau chief and senior political correspondents joined me in California for a private dinner at Reagan’s home in Pacific Palisades. They got a sense of him as a person and it affected how they saw him as a politician.

The vote for president is the most personal vote people cast. It depends less on their reading of the candidates’ positions on foreign policy or health care than their sense of what sort of person the candidate is. In the 1970s and much of the ’80s, it was regional national reporters who often told us who the candidates were. But the disappearance of regional bureaus and the rise of the Internet has been accompanied by an unexpected resurgence of the hometown reporters that Kurtz wrote about.

He quotes Lieberman campaign spokesman Jano Cabrera conceding, “David (Lightman) is someone who knows Joe Lieberman better than I do. He comes to the table with a better understanding than not only many on the candidate’s staff but many in the press corps. What he writes matters.”

In parsing the role of the print media in presidential politics, Nelson W. Polsby observes in *Presidential Elections* that the major importance of newspapers is their ability to present basic information on the candidate and the campaign and to intensify the predispositions of their readers. And the most important piece of basic information the print press transmits has to do with helping their readers to understand who the candidate is and what he or she is really like.

Television is still the main course in the media food chain. But it is the print press that sets the table. The elite press sets the agenda for television, and all of them do heavily reported personal and political profiles of the major candidates. That reporting inevitably begins with a search of the clips, and the stories retrieved from Lexis-Nexis and written over time by the home-

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town person closest to the candidate may well end up shaping the national perceptions on which victory will ultimately depend.

It is possible for a deft political operative to spin even the savviest national reporter on a shift in policy or a slip in the polls, but it is virtually impossible, even for the most adept consultant, to spin a personal relationship that has evolved over a number of years between candidate and reporter. It is those reporters who paint what Walter Lippmann referred to as “the pictures in our heads.”

Bernard Cohen argued that while the press is rarely able to tell people what to think, it is quite successful at telling people what to think about. The best journalism is also quite adept at telling people how to think about something. And it is far better at telling them how to think about a candidate than it is at suggesting how they should think about that candidate’s position on a complex array of policy issues. This is in no small part due to the fact that most reporters actually enjoy writing a lengthy, in-depth profile of a candidate while they consider policy analysis slightly less daunting than a root canal.

The relationship that evolves can cause problems in some cases, but most hometown reporters are able to maintain their distance. Indeed, the *Burlington Free Press* has been notably tough on Howard Dean, and John McCain had a running feud with the *Arizona Republic*. Johnson says he’s just doing his job by staying close to Kerry: “I have no stake in whether he makes it past the New Hampshire primary.”

This may be true of Johnson personally, but it is not unusual for reporters who have a long relationship with—and intimate knowledge of—a candidate who ends up in the White House to find themselves promoted to the White House beat. In 1980, I once again spent the better part of a year following Ronald Reagan around the country. When Reagan won, *Newsweek* asked me to come to Washington to cover the White House, and Michael Deaver and Jim Baker asked me to be Reagan’s press secretary. I declined both offers. □

Tale of the Tape cont.

Beverly Hills. I had to have lunch with her three times to try to get her to cough up a simple VHS copy of this program. Now, at that time, I had never seen the program, and neither had anyone else in the campaign. All we were going on was the word of the woman who called us in Beverly Hills, saying, “I just saw this show.”

Ultimately, we bought this simple VHS copy of a half-hour local access cable channel show for \$10,000, and in order to use the tape, we made her sign the rights away to the tape, so she didn’t have

any legal standing to say, “You can’t use this tape.” She had no animus against Riordan whatsoever. She thought he was kind of a nice guy, and she was very concerned that if we used this tape, that we would get her involved in it, and people would come to her and ask questions, and she didn’t want any of that. So she was very, very leery about this whole thing, and it took a lot of sweet talking to get this tape out of her. In retrospect, it was worth the \$10,000 because the Mike Woo campaign had to pay it.

**CHANCE:** Did anybody go to the mayor and say, “Mayor, we don’t think this is an urban myth?”

**SPILLANE:** When it was on the air, we learned it wasn’t.

**CHANCE:** What was that conversation?

**SPILLANE:** The conversation was, “Holy shit!”

**DOAK:** We always assumed that Riordan knew we had the second ad. We were hoping the campaign didn’t know we had the second ad, or thought it was an urban myth and you’d go up and respond.

**SPILLANE:** The campaign didn’t know about the second ad. Whether Mayor Riordan knew or not, only Mayor Riordan can answer for himself. The campaign had no reason to believe it existed.

**DOAK:** There were two important decisions to be made about how to roll this issue out. One was the timing of it—to roll the first ad, made the second ad much more effective. When we put the first installment on which said Riordan was a right-to-lifer, his numbers went up in the Republican primary for a few days. Then we hit him. But we had focus grouped this, and we knew how devastating it was; the one-two punch was just a killer.

**SOUTH:** We knew it would be relatively fatal, but the damaging thing when we played out this one-two punch in focus groups was that when we were focus grouping swing voters, both right-to-lifers and pro-choicers in the same focus group, and we showed them the two spots.

The right-to-lifers thought this guy truly was right-to-life, he truly was against abortion as a very strong Roman Catholic, but then he just cravenly and crassly changed his position to

run for mayor in 1993. As a matter of fact, that’s kind of what he said, when you ask him about it—“Well, that was before I ran for mayor.”

So their view was that this was a fundamental shift for crass political reasons against the most strongly held belief in his heart that abortion was, in fact, murder. And the pro-choicers thought the guy was just a liar, that he was out there saying to everybody, “I’m pro-choice, I can win because I’m pro-choice. I can bring women flooding back to the Republican Party because I’m pro-choice. I can beat Gray Davis because I’m pro-choice.” And he was just lying about it. It was a classic two-edged sword.

**BARABAK:** If the Davis campaign had never run any advertising, would the outcome of the Republican primary been different?

**FLINT:** I think Simon still would have won. Riordan was a flawed candidate, and he would have found something else to screw up. The Deukmejian stuff, our state party chairman, the straw poll, and all of those other things would have happened. It would have been a lot closer, but Simon would have still won.

**SPILLANE:** I disagree. It wasn’t going to be pretty, but he would have won the primary if they had not put on the abortion ad. The abortion ad was critical, because you’ve got it coming and going, and it was a character ad, and it became more than just about abortion. □

## TRIVIAQUIZ

### Quiz Answers

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2. Alben Barkley
3. Richard Nixon
4. S. I. Hayakawa

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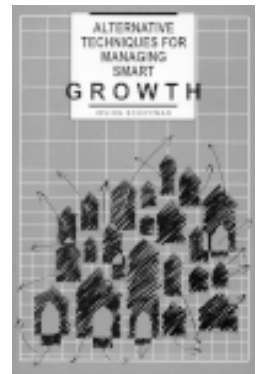
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