

Brooke Crocker: On Baseball

California Review

May 1990
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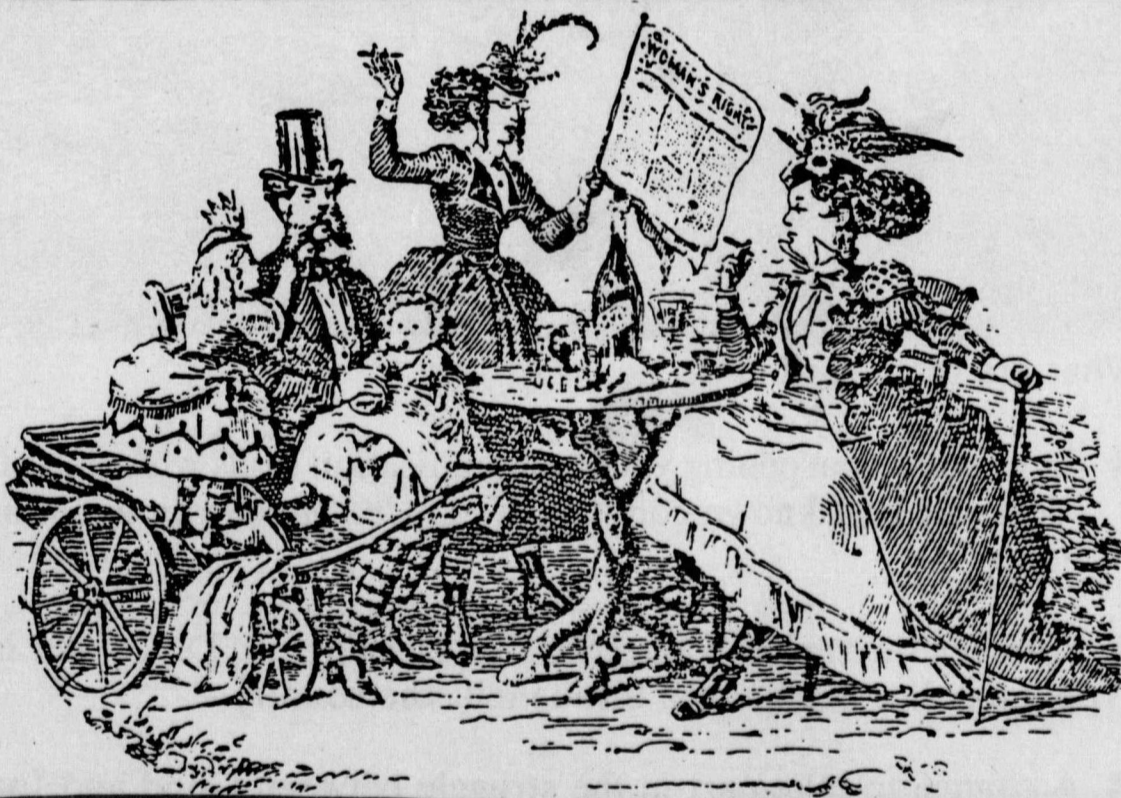


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Letters

Editor:

A recent Supreme Court ruling on the rights of non-Americans may have a chilling effect on the way individual rights are viewed, both in this country and abroad.

The court has ruled that U.S. law enforcement agencies do not have to respect the rights of suspects on foreign soil. Specifically, they have told us that it is acceptable to search the homes of foreign suspects without warrants. This ruling has been condemned by conservatives, liberals, and libertarians alike.

After decades of telling the world that human rights must be accorded to all people, regardless of residence, occupation, or social standing, we are now witnessing the violation of these rights by our own government, and we are letting it happen. This attitude is both hypocritical and unconscionable.

The citizens of this country must once again loudly reaffirm our support for individual human rights, both in our own country and abroad. Anything less would ultimately lead to a further erosion of human rights.

John D. Wallner
 Libertarian Congressional
 Candidate, 44th District

Editors Note: It is not surprising that a Libertarian is concerned about intrusions by the state in the matter of law enforcement. It is surprising, however, that someone who professes to be so concerned with individual freedom is willing to endanger our freedoms



by attacking the document which secures them. Clearly, the Constitution pertains solely to U.S. citizens. It was not the intention of the ratifiers, nor is it our right, to impose the Constitution on those outside our borders. The Supreme Court is not a policy making body; it merely interprets the

Constitution. Chastising the Supreme Court for properly interpreting the Constitution instead of setting policy, is not an action consistent with the safeguarding of freedom.

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Credo: Imperium et Libertas



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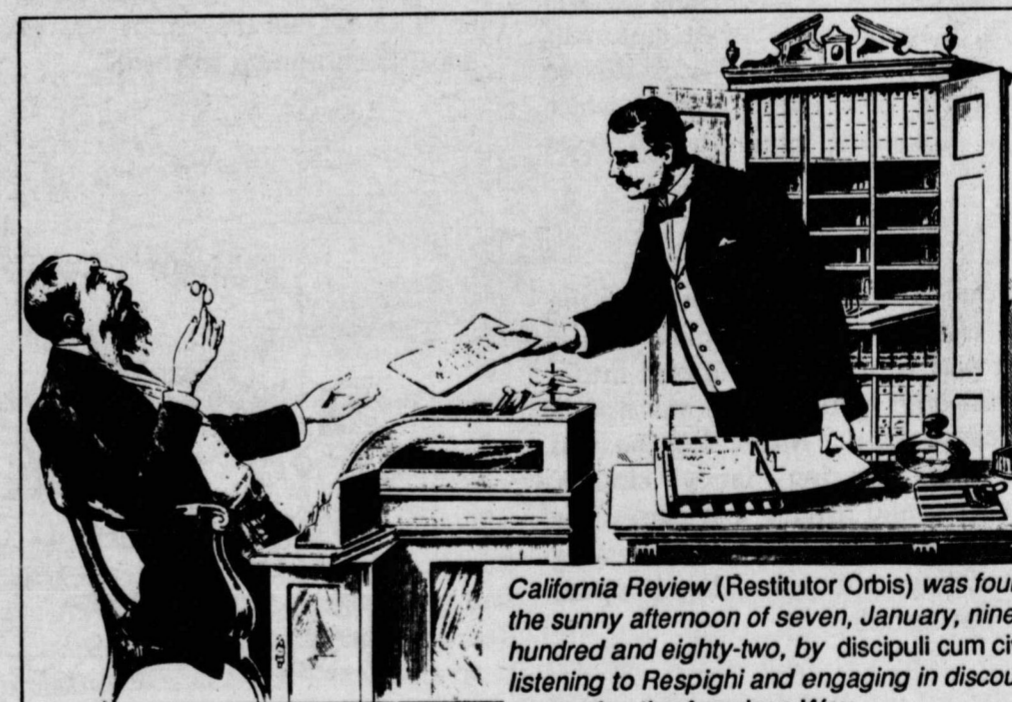
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The opinions and views contained in California Review are the opinions of individual writers and do not necessarily represent the collective opinions of the CR staff, the ASUCSD, the Regents and/or the University of California.



In Review

■ William Hurt's ex-lover is appealing her rejected palimony suit. Sandra Jennings presently receives \$65,000 a year from Hurt in child support. Jennings reports that she and her son are living in poverty, "We struggle. I had to borrow money this week."

■ The Uganda government was recently stopped cold, not by a military coup but by their own phone company. It seemed that the government owed \$5.4 million dollars in unpaid phone bills.

■ In Britain, a woman received a post card from her father 56 years after it was mailed and 40 years after he had died. Dorothy Horton, 73, was 17 when the post card was mailed.

■ The Finnish government has stepped in to save its people from the diabolical schemes of the McDonald's corporation. McDonald's had been running TV ads showing a boy unhappily looking at his parents' new apartment, but then becoming happy once noticing that a McDonald's was nearby. The Finnish government has banned the ad, stating that it exploited a child's loneliness, and could give the impression that McDonald's is a substitute for parental attention.

■ U.S. and South Korean mine detection teams have discovered another secret tunnel leading from North Korea into the South. The tunnel, 145 yards underground, was wide enough for three men to walk abreast. Any possible questions about its purpose was answered by a sign written on the tunnel wall "Let's unify the fatherland."

■ Among the prized acquisitions of the Smithsonian Institute last year were 14 condom vending machines (complete with condoms), and 1,272 dry-mounted specimens of lice.



■ The San Jose Public Library put up a \$10,000 banner welcoming visitors in 30-foot-high letters and 27 languages. Filipinos, however, might have been dissuaded from visiting because the Filipino portion of the banner mistakenly used the word "circumcision" in place of "welcome."

■ Prowlers in Dallas had better beware. Dead Eye Grandma Gena Scarbrough, aged 90, is a crack shot. When she received word that someone was breaking into one of her rental houses, Scarbrough was off to investigate. Scarbrough who owns a .22 caliber revolver and keeps a .410 shotgun by her bed held the intruder at gunpoint until police arrived. Her only regret about the whole incident, "I left in such a hurry that I forgot my shotgun."

■ So you think you have parking woes at UCSD, consider the case of Silvia Matos of New York. She has \$171,746 worth of parking tickets. To date she has not paid one cent on the 2,800 tickets written to her from December 31, 1984 to February 28, 1988. Matos has confounded the authorities by registering her car under 19 addresses and 39 license plates.



■ Another form of Perestroika? Silvia Matos is not the queen of parking fines in New York, it seems that Soviet diplomats over the course of last year accumulated \$352,720 worth of parking tickets, which because of diplomatic immunity will never be paid.

■ Watch out Donald Trump here come the Nuns! A cigar-smoking defrocked nun is converting part of a French convent into a luxury hotel with pink bathrooms and a fridge in every suite. Maria Logghe was defrocked for wearing fancy clothes, smoking cigars, and driving fast cars. The nuns of the convent will live in another wing of the building after the hotel opens sometime this month.

■ Not to be out done by their swinging sister, eight nuns sold their convent in Belgium, without permission, for \$1.4 million dollars. They then relocated to a castle in the French Pyrenees with a farm, 11 racehorses, and six luxury cars - including three Mercedes Benz models complete with phones and televisions.

■ Recently, a Cuban teenager, Lester Moreno Perez, windsurfed from Cuba to freedom in the U. S. After traveling 60 miles at sea, Perez encountered a freighter. Perez shouted in response to questions from the crew, "No problem. I'm just windsurfing, going to see my family in Miami." The crew of the freighter, however, thought it best to bring him on board. Perez got his board, incidently, from an East German tourist who wanted to help Perez escape Cuba's communist regime.

■ Who says Americans are losing their competitive edge? Why this country is the home to male and female champion cherry pit spitters. As male champ Jerry Davenport explains, "It takes a certain amount of finesse and lots of determination to get that tiny chokecherry pit airborne." Davenport won his title with a spitting distance of 33 feet, 5 inches.

■ Return your library book or pay the price. Karen Lindsay of Norcross, Georgia was arrested and taken to jail for failing to return books the library and failing to respond to a court summons concerning the matter. Lindsay was released when it was discovered that she had returned the books and that the summons had been sent to the wrong address.

■ Just say no to bread? According to a flier posted at the American Society of Human Genetics conference "everytime a loaf of bread is baked, approximately 150,000,000 yeast are killed." Members were invited to see the "award winning 1987 film The Very Small and Quiet Screams a cinematic electron micrograph of yeasts being baked." The film was hosted by the Anaerobe Liberation Front whose credo is to "Defend all life, from the greatest to least, from human to yeast."



The Soviet government admitted in March that the NKVD was responsible for the massacre of 15,131 Polish officers in the Katyn forest in 1940. The Soviets had maintained up to this point that the German army had killed the officers. The truth, it is said, is the daughter of time.

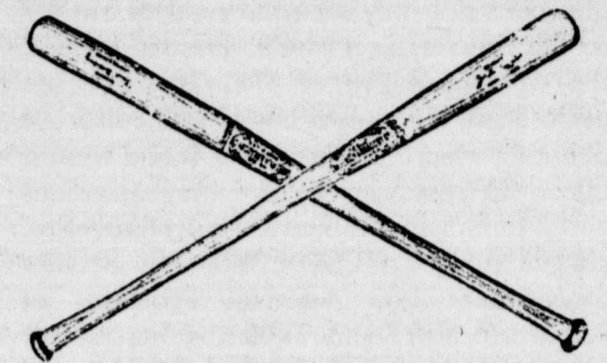
Baseball and America

By Brooke Crocker

What is it about baseball that makes people feel so good? It inspires the best in us, as our hearts sore in pure love of the game, and the worst in us, as we curse the umpire to a sweaty season in hell. Whatever range of emotions baseball inspires everyone seems to have a hidden or not so hidden love for the game. One only has to look around to your neighborhood theater to see that baseball is ever popular - Bull Durham, Major League, Stealing Home, and a slew of other movies have used baseball as their subject. But what made me want to write about baseball was not any of those movies or even the long awaited start of this year's season, it was a very old movie and my dad.

My father recently joined a senior's softball team. He at the youthful age of 62 is not only the youngest and spriest, but if you talk to him, the best player on the team.

My dad's team in non-sexist, it has two female players, and is open to all sorts of people - the pitcher even has a wooden leg (he gets a pinch runner). I really wonder what it is that draws these people to play. I love baseball and have rooted for the Padres since I was a little kid, and I have to admit it makes me feel just plain great. There's an old cliché about baseball and America, that the two are linked together in

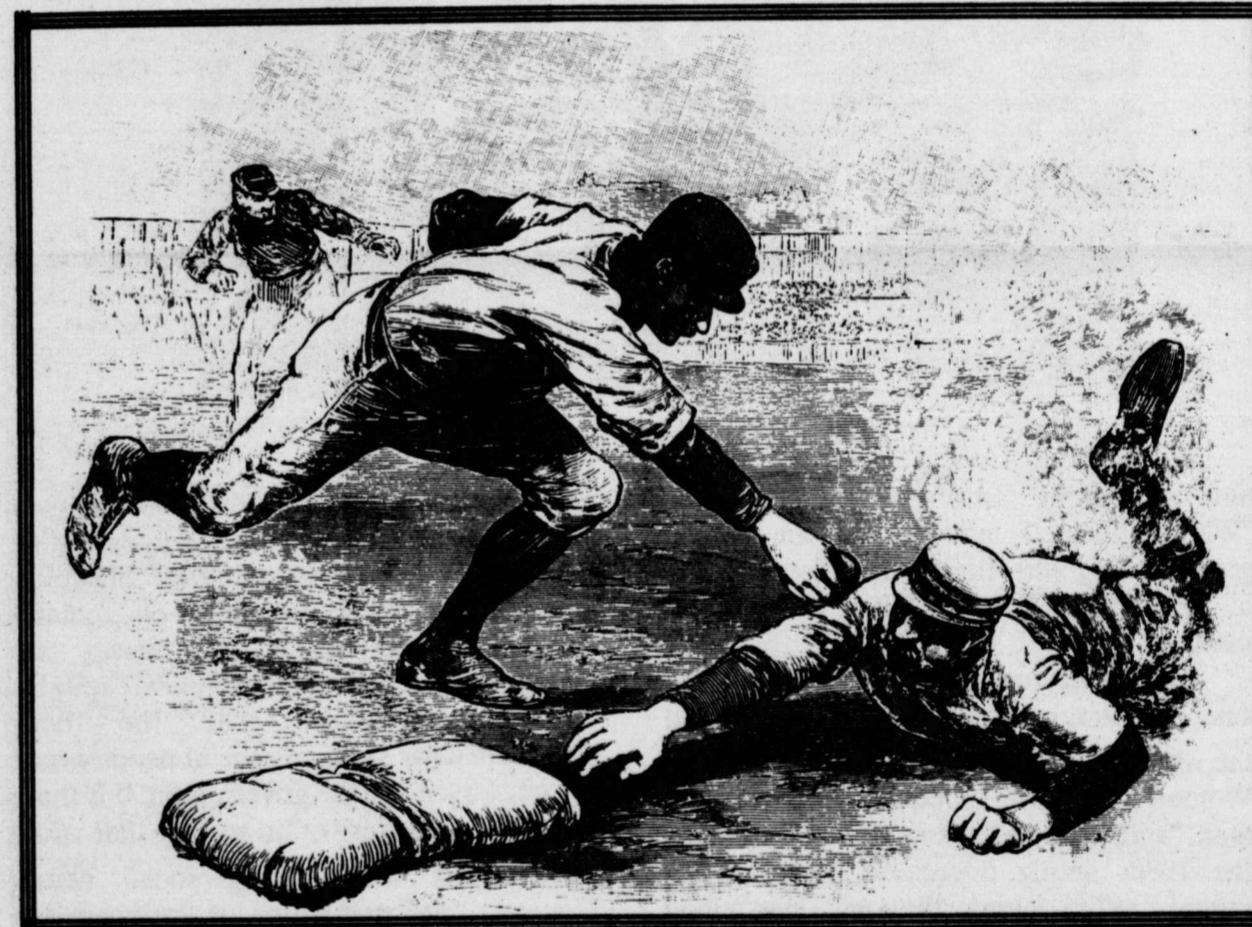


an almost spiritual way. Baseball is more than an American institution, more that a past time. It is a religious revival, constant through the years that affirms for everyone that honest work and honest play account for something.

I watched The Babe Ruth Story, a few nights back. It is a hokey 1948 movie in which the Babe is a pure angel who hits the big homers. A bit to my surprise, it showed the Babe's decline - his last year with the

suing the Church." Baseball is almost holy in America. In the Church of the Diamond, Gehrig, Dimagio, Williams, Aaron, and Mantle all are priests of the game, but perhaps the Pope is Ruth. That old story about the sick kid that Babe promises to hit a home run for is enough to put a lump in anyone's throat. The self confident, even defiant way Ruth pointed over the center field wall before he knocked his shot off is reminiscent of an America fresh, young, and brimming with self confidence. Perhaps we've aged a little and perhaps we do not have that self confidence anymore. Baseball to has changed. Our heros now haggle over multi-million dollar contracts and charge for autographs. One wonders what happened to the love of the game. What happened to America?

We still go to the ballpark, and we still roar and cheer. The game itself cannot



change even if it has become a big business. There is something to love in baseball. Its simplicity, its pure joy, is like sweet reminiscing. Old timers talk about Williams and Dimaggio, the young kids talk about Gwynn and Mitchell. Baseball is America's idealized model of itself. Baseball only allows there to be heros; it has a selective memory that only recalls the names of the greats. Perhaps, that is why America loves baseball so, perhaps that is why my dad and the guy with the wooden leg still play. It is a chance to be a hero, it is a chance to feel great.

Brooke Crocker is a junior at UCSD.

My dad, like a lot of other young men, played sports in high school and college. As a teacher and coach, my dad urged scores of high school kids to baseball championships. Now in his later years he is back at it with a vengeance. Recently, my dad demonstrated over and over his "incredibly smooth" play, which consisted of an across the body retrieval of a sharply hit grounder and a quick behind the back toss to make the final out of an inning. Needless to say, this was the highlight of his day and perhaps his life, for even as an old guy he could still field such sweet plays.

Boston Braves in which he was having a terrible season. But in true hero fashion, the Babe in his last game hit three home runs and turned the jeers of the crowd to cheers. Well, I have to admit I thought the movie a bit silly, but it still brought tears to my eyes and it still made me feel great.

There was a line in the movie, the Babe says to a young up and comer, "Be good to baseball and baseball will be good to you". Even when he was unceremoniously fired from the Braves, the Babe was good to baseball. He did not sue the owners for "I could not sue baseball, that would be like

What Do Feminists Want?

By Sherry Lowrance

Just exactly what is feminism anyway? And where is it going? These are important questions not only for conservatives but for modern society as a whole. Here at UCSD, the opinion pages of *The Guardian* are periodically filled with letters and editorials debating what feminism really is and what it does. In response to my many questions about feminism, I talked to Kathy Shevelow, coordinator of UCSD's Women's Studies Department and Assistant Professor of Literature, and Sheila Tobias, spring quarter Visiting Lecturer of Political Science and feminist author.

According to Shevelow, there is no official feminist orthodoxy. "[Feminism] is a range of positions within a kind of framework concerned for women's place in society," she said. "You can't characterize the whole movement by reference to any one group within it." When someone does take one person or group as characteristic of the entire feminist movement, problems occur. "The tend to look at the most extreme sorts of groups and say that all feminist want to burn bras and never talk to men."

There is an underlying principle to feminism, however, that is in common with all feminist ideology. Feminists have in common "a refusal to accept a patriarchal social order" in which patriarchy is loosely defined as "a social configuration in which men are more powerful than women or are those who control society." However, disagreement transpires on how to remedy perceived social ills. There is not much consensus on "how to achieve these goals or even what the priorities should be."

Although the National Organization for Women (NOW) is probably the most visible feminist organization in America, it is no more representative of feminist ideology than any other feminist group. "The goals of NOW are, at least to some degree, shared by most feminists," Shevelow explained, "but many feminists would find them very moderate and accommodationist."

There are other important groups within the feminist movement, Shevelow said. The radical lesbians play an important role in feminism, as do the Marxist feminists and the revolutionary feminists. Small splinter groups, such as the separatists, who believe that women should live in a completely separate society from men, or the essentialist feminists, who believe that there is an "essential female nature" that is different from an "essential male nature," have also found their own special niches in feminist thought.

"There is a very small strain that is anti-choice [pro-life] feminism," Shevelow said. Most feminists, however, see a contradiction between being pro-life and being a feminist.

There is also a growing concern for women as domestic workers. "Those women's interests are our interests, too," she explained. There is nothing inherently wrong in being a domestic worker or

homemaker, but what is wrong is "the notion that only women can be a homemaker or have to be a homemaker, or even that women are better homemakers than men."

Feminism has had a rough time in the 1980s, according to Tobias. The decade opened with "the most concerted effort since the post war *feminine mystique* to roll back women's rights." Of particular concern to Tobias was the end of a Supreme Court majority of activist Justices who supported feminist positions, cuts in social spending,



and a growing anti-feminist movement. "While educated minority women gained ground along with their white Anglo sisters in the 1980s," Tobias said, "the minority poor are in worse shape than before."

"But that's just the surface story," she said. "In fact, in my view, the 80s witnessed the remarkable staying power of feminism." Women now vote in equal proportion to men, "and, as the elections of the last half of the 1980s amply document, they have a feminist value agenda they are determined to impose. Moreover," she said, "polls show that today as many men as women favor equal rights and choice." Of course, conservatives may not see what Tobias does in voting patterns of the late 80s, and would not take a consensus in favor of "equal rights" as necessarily a sign of growing feminism. And the "pro-choice" stand of many people is arguably based on reasons other than the ideological ones put forth by feminism.

Tobias is also upbeat about how women are gaining in the economy. "Women now own 25% of the nation's small businesses," Tobias said. "By the year 2000, they are expected to own one half." In addition, women now make up 33 percent of executive, administrative, and managerial

positions, up from 21 percent in the 1970s. But again, conservatives would argue that this progress, achieved during a concerted effort "to roll back women's rights," merely shows that feminist ideology is deficient, and there is nothing structurally hostile to women's interests in our present society. Nonetheless, Tobias sees "the lessons of the last ten years are these: Feminists and feminism, whatever the labels, are here to stay."

Shevelow thinks it may be possible to stake out a "feminist position within

conservatism." Since most conservatives dislike the call for governmental intervention to cure society of inequalities, Shevelow believes the difference between socialist feminism and capitalist feminism are important. According to Shevelow, capitalist feminism maintains that the body responsible for satisfying social needs would not necessarily be the government, but there are other agencies within society that could be charged with solving social needs. However, "the perception of the need that needs to be addressed would be very much the same as a feminist on the left," she said.

At the heart of feminism lies a "criticism of a social structure in which women are subordinated to men, economically and politically," Shevelow said. "If a conservative person could be critical of that distribution of power, then it sounds like the makings for a feminist position." However, she expressed doubt as to the likelihood of such a position. This is a good point. Conservatives, for the most part, do not see the current distribution of power as oppressive, and because of a belief in equality of opportunity, not equality in effect, most conservatives do not have a problem with a social structure merely because everything is not equal. If equal

opportunities exist, then differences in abilities and motivations will naturally cause an unequal distribution of outcomes. Manipulating the effects overrides personal freedom and the free market system and may cause unnecessary governmental interference, which conservatives abhor. Whether or not actual equality of opportunity exists is a relevant question, but most conservatives would say that it does exist.

In addition, many conservatives may also dispute the ideological core of feminism--that all differences between the sexes, aside from physical differences, are imposed by society. Like feminists, however, conservatism does not have an official orthodoxy, and differences do exist in conservative responses to feminism.

As we can see, there are many objections that can be raised about feminist thought and practice. There are also many ideas in feminism that strike many people as admirable. But regardless of what opinion we have about feminism, it is important that we know about it as feminist thought has shaped the way we think today. Understanding the arguments and goals of the feminist movement will help us form better judgements, either on why we oppose it or why we find it valid.

Sherry Lowrance is a sophomore at UCSD.



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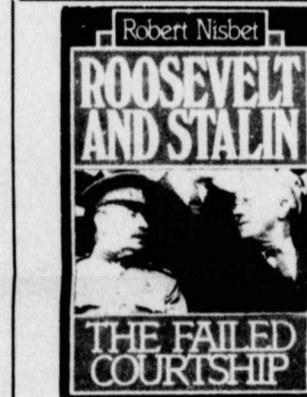
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Bork is Back

The Tempting of America: The Political Seduction of the Law
By Robert H. Bork
Free Press, 432 pp., \$22.50

By Alan Foster

Judge Robert Bork is not sitting as a Justice of the Supreme Court, but through his writings he now is probably having more effect on the institution than if he had been a member. Bork's best selling book, *The Tempting of America: The Political Seduction of the Law*, certainly is influencing public opinion concerning constitutional law, and educating people as to the battle being launched by the Left to implement its political agenda through control of the Supreme Court.

The Tempting of America, however, is not just an attack on the Left. Bork sets out to defend the principle of judicial restraint and the theory of "Original Understanding"—that judges are bound to "apply the Constitution according to the principles intended by those who ratified the document"—against advocates of judicial activism of any political stripe. Indeed, in his outline of the history of the Supreme Court, he tells how the Court in the past often used judicial activism to read conservative principles into the Constitution that did not exist. He also criticizes the view of University of San Diego professor Bernard Seigan (a Libertarian) that the Court is empowered to protect "economic liberties" never discussed in the Constitution.

Bork eloquently argues the merits of original understanding, and destroys most of the current objections, or alternative theories to interpreting the Constitution. The chapters devoted to the critics of original understanding are brilliant, and superbly written. It is not the role of a Justice to determine whether a law is good or desirable, but only to determine whether principles found in the Constitution forbid its implementation. No reading of the Constitution, or of the history of the ratification process, remotely suggests any greater power for the Supreme Court. Nonetheless, theories which seek to justify judicial activism abound in our law schools.

The most significant invention used by judicial activists is the concept of "substantive due process." This was first used by Chief Justice Taney in the infamous Dred Scott case. Taney argued that the Constitution states that "no person shall be deprived of life, liberty or property without due process of law," and, therefore, for a state to take away someone's property (in this case a slave) simply because he entered that state was a violation of constitutional due process. Bork comments that,

[Taney quotes the guarantee of due process, which is simply a requirement that the substance of any law be applied to a person through fair procedures[...]. The clause says nothing whatever about what the substance of the law must be. But [Taney] transforms this requirement of fair procedures into a rule about the allowable substance of a statute. The substance Taney poured into the clause was that Congress cannot prevent slavery in a territory because a man must be allowed to bring slaves there.

This trick to protect non-existent "constitutional rights" has been used many times since Taney used it, most notably in *Roe v. Wade*.

Bork points out that the 1973 *Roe* decision is interesting in that in its 51 pages it contains "not one sentence that qualifies as legal argument." The Court merely asserted that abortion is a constitutional right, period. For this, Bork calls *Roe* "the greatest example and symbol of the judicial usurpation of the democratic prerogatives in this century."

This is the heart of Bork's judicial philosophy—by going beyond original understanding, judges are subverting the democratic process by proclaiming their own views as law. And all forms of judicial activism are unacceptable, undemocratic, and unconstitutional because they unavoidably give judges enormous power to make up and alter laws, a process which constitutionally belongs to the people and their legislatures. Bork argues that the Left has been using the court system, and judicial activism, to put into place its political beliefs which it could not win through elections and the democratic process.



This is indeed disturbing, and, through Bork's book, well documented. But at least these assaults on the democratic process face significant opposition. The most dangerous *Tempting of America* is judicial activism being used by majorities to instill their wishes into the Constitution. After all, most people like judges who rule in favor of their beliefs or interests. Whether the judge does this through judicial activism isn't of much concern.

Reading Bork's principled defense of original understanding, it is obvious that Bork would have made a model Supreme Court Justice. He would have made decisions based solely on the text of the Constitution and of what those who ratified the Amendments meant by the language they used. So after reading the first 265 pages of Bork's book, the final section, "The Bloody Crossroads," which tells of the campaign against his confirmation, makes fascinating and infuriating reading.

While testifying before the Senate, Judge Bork outlined his views thusly:

The judges authority derives entirely from the fact that he is applying the law and not his personal values. That is why the American public accepts the decisions of its courts[...]. The judge, to deserve that trust and authority, must be every bit as governed by law as is the Congress, the President, the state Governors and legislatures, and the American people.

Such a philosophy is anathema to the liberal activism that has dominated the Supreme Court for the last half century, and which has been used by the political Left to forward its political and social agenda. Therefore, the Left had to defeat Judge Bork's nomination, and it found no tactic too unethical in this effort.

Liberals in the Senate, led by Teddy Kennedy, first succeeded in postponing debate on Bork's nomination for the sole purpose to buy time for liberal public interest groups to mount a negative campaign. They themselves then mounted a scurrilous smear campaign. The *Biden Report*, for instance made the completely false charge that "Judge Bork Has Indicated That The Constitution Does not Protect Against Mandatory Sterilization." In coming to the conclusion that Bork favored the interests of business, the report categorized his rulings in favor of labor unions as "pro business" because unions are in the "business" of organizing labor. The outright lies used by Kennedy, Biden, Metzbaum, and others make Nazi propagandist Joseph Goebbels look like Walter Cronkite. It is truly sickening that these people hold high public office.

But the disgraceful acts of the liberal leadership in the Senate did not stop at fanning outrageous lies. Joseph Biden and other Democrats scheduled testimony from hostile witnesses early in the day, and from favorable witnesses late in the day—after the deadlines for the evening TV news reports and morning papers. Therefore, TV and newspaper reports were always filled with negative testimony, when in fact the bulk of "mainstream" opinion favored Bork's nomination.

If such a thing were possible, the campaign launched by Leftist interest groups was even more disgusting than that waged in the Senate itself. The ACLU sent out letters reading:

"DETAILED RESEARCH REVEALS BORK FAR MORE DANGEROUS THAN PREVIOUSLY BELIEVED...WE RISK NOTHING SHORT OF WRECKING THE ENTIRE BILL OF RIGHTS...HIS CONFIRMATION WOULD THREATEN OUR SYSTEM OF GOVERNMENT."

This about a man whose judicial philosophy (clearly shown in his judicial record as well as writings) is the same as that espoused by James Madison, the principle author of the Constitution.

The Tempting of America is an important book. It is an excellent study of constitutional theory and history. But beyond that, it vividly shows the dangers posed to the rule of law by those seeking to use the judicial system as a way to subvert the democratic process and the Constitution. Occasionally Bork is repetitive, but by in large this book is well written and clearly thought out. It is must reading for anyone interested in constitutional government.

Alan Foster is a senior at UCSD.

The Law School Scam: Background, LSAT, and Law School

By Frank Cerrone

I have two purposes in writing this article. One, I want to at least let perspective law students know what to expect when they apply to law school, what it is like if and when they are admitted, and what is required to get through it once they are admitted. Two, I have included in my advice constructive criticism of the whole law school admission and attendance process.

The present process attempts to exclude as many individuals as possible no matter how qualified for law school they might be. The Law School Admission Test (LSAT) and law schools pursue this goal of exclusion of perspective law students more through intimidation—by excessive reliance on the LSAT and in making, and even more irrelevantly, presenting legal courses as more difficult to learn than they need to be—rather than outrightly excluding perspective law students from the field.

I agree with most law school administrators that there is no one clearly defined pre-law major. I know a lawyer who was an English major in college and another one who was a physics major. That shows a lot of diversity in the field right there. The college courses I would recommend as acceptable for law school background are speech, Constitutional Law, American History, Business Law, and any kind of composition writing courses. Also, taking Liberal Arts courses covering a broad spectrum of topics can be helpful.

As you might suspect from the overall title of this article, I do not think that the LSAT in its current form accurately measures one's ability to perform in law school. The several parts of the LSAT are, Essay, Reading Comprehension, Analytical Reasoning, Dispute Characterization, and Logical Reasoning.

The LSAT is a 4 hour test with 3 1/2 hours of multiple choice questions. The 30 minute essay is ungraded.

The essay should be graded even though the evaluation of any essay is inherently subjective. The ability to write logically and coherently, and especially to the point is an essential skill in law school and even more in law practice. Essay writing can provide insight into not only what an applicant knows but how he or she reasons. Thus, it is ironic that what could well be the most important part, even though an admittedly subjective part, of the LSAT is not even graded.

The reading comprehension section requires one to read an essay and then answer specific questions about it. Law students need to comprehend details in legal writings, so I can see why these questions are asked. However, these LSAT essays would be more useful if they were more related to law.

The analytical reasoning section of the LSAT is the least related to performance in law school. The questions in this section will ask one to make logical inferences from facts dealing with persons or items in specific positions, or places on maps, or maybe even objects in a line, etc. I can tell you from personal experience that your

ability to do well in law school has nothing at all to do with your ability to navigate mentally through the hare brained, useless fact patterns in this section of the LSAT. This section of the LSAT gives the whole test a bad name. It ought to be abolished immediately.

The dispute characterization questions require reading skills and the application of given rules to answer the questions. Both of these skills are necessary in law school. This section of the LSAT should be expanded.

The logical reasoning section has applicants read a passage and answer questions which test their ability to determine the author's motivation and main



points in the passage. This section is arguably permissible, but what is the point? Again, the questions in this section would be more useful if they more closely related to law (as, say, involving the reading of a fact pattern of a simple case or a simple statute.)

Having reviewed all five parts of the LSAT, I think I have taken some of the wind out of the LSAT sails. I know a need exists for some sort of law school admission measuring stick. But the best way to conduct the LSAT is to give essays related to general legal principles and short answer questions related to general legal principles. In this fashion the skills tested on the LSAT could be most rationally related to those one needs in law school. Preparing for the current LSAT is too much a matter of learning test taking skills and not enough a matter of learning anything about law.

Law School

Upon starting law school, students will face a whole new set of problems from those of proper pre-law background, the LSAT, and choosing a law school. Law school courses, at least those encountered during the first year, are taught from casebooks. This is a traditional, but very bureaucratic way to learn law. The problem

with the casebook method is that it in effect takes the student through all the details of a course without first imparting an overall understanding of it. The casebook method of learning law requires law students to read a case at a time to get a rule of law out of it. Theoretically, this is the best way to learn law because a student is being exposed to the factual context in which the rule of law will be found. However, the practical problem with the casebook method is that it inundates students with an enormous mass of detail. By the time students separate the unimportant from the important for the final exam in the course, they do not have the

time to learn the rules of law in a course adequately. The casebook method only makes learning law procedurally more difficult. I can honestly say that if I used the casebooks my law professors recommended in first year law school to learn the required curriculum, I would have flunked.

Hence, I, along with so many other law students, used study aids to learn law. Study aids such as Emmanuels, Gilberts and the Black Letter Law Series are excellent. They are the most efficient of their kind in presenting legal courses. They are also the most readable. I would also recommend hornbooks, authored by a renowned scholar in a field of law that are written in a straightforward fashion, like an undergraduate text book, to learn a particular legal course.

Certainly, for first year legal courses anyway, law students will have one final exam (mostly essays) for their whole grade in a legal course. The quandary of how to learn a vast amount of information in a very short period of time makes a condensed outline of a particular legal course crucial to law students' performance on that legal course's final exam. A proper outline of a legal course should be a condensation of everything in that course.

Law professors like to use the Socratic Method in class. The professor will ask questions about cases, and often the law student will have to stand up to answer these questions. If he or she does not know the answers to particular questions, the professor will often just keep asking more questions concerning the same cases or questions about new issues. This can be a terrifying experience. Law students can survive the Socratic Method by demonstrating at least some knowledge about the questions being asked. For this reason I always brought my study aids to class (Casenote legal briefs, which give brief summaries of facts of cases, are excellent for this purpose).

Case briefing is another aspect of the law school experience. This is a method of breaking down cases after reading them to determine their component parts. Case briefing involves law students summarizing the issues, rules of law, analyses of reasoning, and brief factual summaries of cases. These are then used as reference for daily class and final examination preparation. Case briefing is a good method for helping students understand the mechanics of cases. Yet, I feel it is overemphasized in law school. Law students

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The Third College Name Game

By Brooke Crocker

Third College likes to title itself as "An Exciting Choice"—exciting in every choice that is, except its choice of name. In a letter to the editor printed in The Guardian, Provost Cecil Lytle stated that the reason Third College was not the first choice for most students entering UCSD was because Third "never had an appropriate name." This just does not sit well with me. There must be more reason than that to why Third is the fourth most popular college in numbers of new entering students. The reason is not that Third's name is nondescript or that the other colleges are more publicized or that their names are more exciting; it is due to the fact that Third's program is not considered intellectually stimulating to many students.

When I was fresh from the back hills of Del Mar, I thought the Third in Third College stood for the third world. This did not taint my view of the college nor did it alter my choice, which was to choose Warren. My choice, believe it or not, was based on academic considerations, not on "appropriate" names. The name Warren did not set my little high school heart on fire; the college could have been named Fourth. There are higher criteria for choosing a college than Provost Lytle seems to realize.

I have nothing against Third College. I think I will miss the name Third. Besides the annoying fact that TLH and TCHB will have to have new call letters, Third seems to fit. I initially thought a college named for the third world was interesting, but now that I know better, Third still has one of the best names on campus. What do Muir, Revelle, and Warren actually mean to students of the colleges? Not a great deal I should think. I have never really thought about Earl Warren all that much (my junior high school was also named for the guy and I am kind

of sick of him). Third's name is unpretentious, simple, practical, and truthful - what more could you want in the name of a college.

This quest for a new name for Third college is a wild goose chase, it does not matter what the college is named as long as its programs are valid. If Third does change its name, after twenty odd years, well so be it. It won't kill anyone, nor will it greatly alter the enrollment rate at the college. I do not think the "outside world tends to see the name Third College as an issue that has not been settled", as Provost Lytle seems to think. I do not think the outside world really gives a damn. In fact, I am sure the outside world doesn't consider Third a strange name at all.

If there are problems at Third it is not due to its name, but to its unattractive academic package. I would agree that a name does give a certain image to a college, but its affect is slight, especially in the area of attracting new students. The problem with Third College is that it does not present students with any academic purpose. Revelle, through its humanities sequence, stresses the need for educated people to be familiar with the great thinkers and writers

of our past. Warren's requirement of two programs of concentration provides the student with the opportunity to obtain some in-depth well roundedness, Muir's many general education courses presents the philosophy that students should have a basic understanding of a diverse range of topics. Third's weak and unfocused requirements, however, present no such reasoned program.

According to my 1987-88 catalogue, students at Third really get very little when it comes to studying other cultures. They have a general education requirement titled "societal analysis" which requires them to take one course from three of these four



areas: Communications, Third World Studies - History, Third World Studies - Literature, and Urban Studies and Planning. That is not a whole heck of a lot of cultural horizon expanding. But wait, there is more! There is some strange creature titled the noncontiguous upper-division requirement, which requires students to take three courses which are noncontiguous to the major, at least one of them focusing on a society or culture other than one's own. The only education philosophy present here is a vague notion that students should study some non-western things - as if being non-Western, in and of itself, were the determining factor of academic value.

The academic program at Third is so weak and vague as to have no meaning. It would serve Third College better, if its name were left alone and its academic program were given an appropriate focus.

Brooke Crocker is a senior at UCSD.

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need first to get a skeletal overall knowledge of a legal course to learn it most efficiently. Then they can put meat on the bones—by getting acquainted with the different factual contexts in which the rules will be found.

Legal research is a very important first year legal course. The skills one learns in this course, for the most part, remain constant throughout one's legal career. However, the problem with legal research in most law schools is that it is taught only in the classroom (what I call throwing material out at the students). Methods of legal research need to be shown to law students in a law library. Classroom instruction must be supplemented with law library demonstration.

Finally, legal writing is another very important first year law school class. Often law schools combine their legal research and legal writing courses. Legal writing is related to legal research because law students need to know how to research the law before they can write about it. This legal course, whether combined with legal research or taught on its own, is suitable for classroom teaching. Legal writing is an absolutely essential legal skill. Unfortunately, no easy way exists to learn legal writing. And I will be the first to admit that it is tough to balance the responsibilities of legal writing with those of other first year legal courses.

Frank Cerrone is a practicing lawyer in West Virginia and has been a California Review subscriber since 1982.

Students Should Know More Than Merely How to Think

By Lynne V. Cheney

An instance of the elevation of process over content in higher education can be found in what have come to be known as "discourse studies," an approach to knowledge that has become enormously influential in literature and other disciplines as well. What counts most in such teaching and research is not the what. The subject can be anything: poem, play or bumper sticker. What counts is the how: How is this text, seemingly innocent, implicated in ideology? How can it be unmasked? At the University of Minnesota, the Humanities Department is currently proposing to abolish its chronologically organized Western civilization sequences and substitute three new courses: "Discourse and Society," "Text and Context," and "Knowledge, Persuasion, and Power." In the old courses, the focus was on the works of Plato, Dante, Descartes, and Rousseau. In the new ones, the emphasis is on "the ways that certain bodies of discourse come to cohere, to exercise persuasive power, and to be regarded as authoritative, while others are marginalized, ignored, or denigrated." Instead of focusing on the writings of Wordsworth and Eliot, the new courses emphasize - and again, I quote - "hegemony and counterhegemony."

Given the pervasiveness - "hegemony" perhaps I should say - of the view that ways of knowing should have preeminence over knowledge, the time has come, let me suggest, for a thorough and thoughtful examination of this idea. Many questions might be asked; let me begin the discussion by asking just two.

First: Even if we posit that the various fields of human inquiry are at the highest levels of scholarship distinguished by differing approaches, is this a matter of interest or use to most undergraduates? I come at this question from literature, and I have to say that most undergraduates I have

known - most people I have known - who love plays and novels and poetry are not interested in them as methods of discourse but as sources of insight into their lives and into the human predicament. "Why are we reading," Anne Dillard asked recently, "if not in hope of beauty laid bare, life heightened and its deepest mystery probed?" There is satisfaction, of course, in seeing how language achieves beauty, heightening, and revelation - but it is the achievement itself that draws most people back in time and again.

A student of Harvard professor Robert Coles recently described the value of literature this way:

"When I have some big moral issue, some question to tackle, I ... try to remember what my folks have said, or I imagine that in my situation - or even more these days, I think of [characters from novels, like] Jude Fawley [in *Jude the Obscure*] or Jack Burden [in *All the King's Men*] ... There's a lot of me in them, or vice versa. I don't know how to put it, but they're voices and they help me make choices ... Why don't college professors teach that way?"

Many professors do, of course, including Robert Coles. But to the extent that we allow "approaches to knowledge" to distance us from knowledge itself - in this case, from the novels themselves - shouldn't we ask whether we are serving our students well? Shouldn't we ask whether we are teaching them in ways likely to encourage them to find in the humanities the wisdom and solace that generations have found?

My second question is this: When, throughout our system of education, we emphasize "approaches to knowledge," what kind of young people are we likely to produce? If we assume that it is possible to teach processes of knowing without emphasizing knowledge itself, then we can hypothesize quick-witted, nimble-brained generations that, not knowing as much as the should, nevertheless have the ability to learn quickly.

But it may also be the case that not knowing as much as one should severely hinders ability to learn at all, much less to learn quickly. Bernard Lewis, Princeton's distinguished professor of Islamic studies, told recently of teaching a graduate seminar and finding that the students in it did not know what the Crusades were. They had the modern meaning - a crusade as a cause - but no idea of the word's historical significance. This would, one would think, be a rather great hindrance to students engaging in advanced study of Middle Eastern history.



Lack of knowledge can be an obstacle to understanding the present as well as the past. A story in last Saturday's *Washington Post* was headline, "East European Events Leave Busy American Teenagers Unmoved." It told of teachers across the United States trying to engage their students with the dynamic and moving events of these past few months in Poland and Hungary, Germany and Czechoslovakia - and of those teachers finding their students confused and indifferent. The students didn't have sufficient historical context to understand the significance of changes in Eastern Europe. As one teacher put it, "They don't understand what communism is in the first place. So when you say it's the death of communism, they don't know what you're talking about." During a discussion in which East bloc countries were referred to as "satellites" of the Soviet Union, one student raised her hand to ask, "I'm sorry, but what is this talk of satellites? ... Are we talking about satellite dishes or what?"

The emphasis in our educational system on approaches to knowledge as opposed to knowledge itself is not the only culprit here. There are many reasons why young people in this country do not know as much as they



should. But surely the emphasis on process and the neglect of content that we can see at all levels of education is an important factor here. If we do not emphasize that there are some figures and books and events that are important to know, then we shouldn't be surprised when young people don't know them. If we don't undertake the hard work of setting out a framework for learning, then we shouldn't be surprised when students don't have one and when they have difficulty making sense of new events.

Concentrating on knowledge, concentrating on what should be taught and learned, as well as on ways of teaching and learning and knowing, is not easy work. But it may be among the most worthwhile efforts that those of us concerned with education can undertake.

The generations, Bernard of Chartres once observed, are like small figures "seated on the shoulders of giants." His point was not to diminish the present and glorify the past, but to stress the enormous benefit to the present that knowledge of the past offers. By focusing on what is important to know and helping the next generation to learn it, we lift them up so that they can in Bernard's words, "see more things than the ancients and [see] things more distant."

Lynne V. Cheney is chairwoman of the National Endowment for the Humanities. This article was excerpted from the address she delivered at Harvard's Kennedy School of Government on December 5, 1989. Distributed by the Collegiate Network.



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<p><i>If Kitchner is not a great man, he is, at least, a great poster.</i> --Margot Asquith</p>	<p><i>An intelligent Russian once remarked, "Every country has its own constitution; ours is absolutism moderated by assassination."</i> --Anonymous</p>	<p><i>A sympathetic Scot summed it all up very neatly in the remark, "You should make a point of trying every experience once, excepting incest and folk-dancing."</i> --Anonymous</p>
<p><i>Give me somewhere to stand and I will move the earth.</i> --Archimedes</p>	<p><i>See the happy moron, He doesn't give a damn. I Wish I were a moron. My God! Perhaps I am.</i> --Anonymous</p>	<p><i>How about "Cloudeuckooland."</i> --Aristophanes naming the capital of the birds.</p>
<p><i>Drastic measures is latin for whopping.</i> --F. Anstey</p>	<p style="text-align: center;">Parting Thoughts</p> <p>By Rory Cheeney</p>	<p><i>Had I been present at the Creation, I would have given some useful hints for the better ordering of the universe.</i> --Alfonso the Wise, King of Castile</p>
<p><i>O Death, where is thy sting-a-ling-a-ling. O Grave, thy victory? The bell of Hell goes ting-a-ling-a-ling for you but not for me.</i> --Popular British Army song 1914 - 18</p>	<p><i>And those people should not be listened to who keep saying the voice of the people is the voice of God, since the riotousness of the crowd is always very close to madness.</i> --Alcuin</p>	<p><i>Plato is dear to me, but dearer still is the truth.</i> --Aristotle</p>
<p><i>As for rioting, the old Roman way of dealing with that is always the right one; flog the rank and file, and fling the ringleaders from the Tarpeian rock.</i> --Dr. Thomas Arnold</p>	<p><i>Should the whole frame of nature round him break, In ruin and confusion hurled, He, unconcerned, would hear the mighty crack, And stand secure amidst a falling world.</i> --Horace</p>	<p><i>The true meaning of religion is thus not simply morality, but morality touched by emotion.</i> --Matthew Arnold</p>

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