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Talking with a giant:

A Forum exclusive interview with Judge Richard Posner

By Alec Miller
Forum staff reporter

I remember entering the Seventh Circuit Court of Appeals about ten minutes before the session began. Although I had been there almost every day of the summer, that particular day was different. The courtroom was full; there was a buzz of anticipation in the air. That day, Judge Richard Posner was on the panel. It all started innocently enough. The petitioner began by introducing himself and then proceeded to his argument. Then it happened. Posner interrupted, “Isn’t this just a contracts issue?”

“Well, Your Honor, I think that there are some differences,” the petitioner answered. “It’s really just a contracts issue isn’t it?” Posner persisted. The petitioner’s face began to turn a shade of red a little lighter than the plush carpet beneath his feet. “No Your Honor, if you read the case on page six of our brief you’ll find…”

Posner smiled, and the courtroom was quiet for a moment. Then the judge interrupted, “Farnsworth on Contracts, you’d know that this is really a simple contracts issue,” Posner answered. Judge Coffey smiled. I reached for pop corn that wasn’t there as the one-sided intellectual jousting continued until the petitioner, like a dejected grade-schooler, was sent back to his seat as his had been joked.

That was my first personal experience with Judge Posner. Some call him a tyrant—a “mercilessly sedulous legal theorist.” Others call him a philosopher—the “Marcus Aurelius of modern legal thought.” All call him brilliant.

Richard A. Posner is perhaps the most prolific writer of any legal scholar. He has published more than 30 books, written over 300 articles, and authored more than 1,900 judicial opinions. Posner has written on a diversity of subjects, from medieval Iceland to modern intellectuals.

As a professor at the University of Chicago Law School, Posner has taught administrative law, antitrust, economic analysis of law, history of legal thought, conflict of laws, regulated industries, law and literature, the legislative process, family law, primitive law, torts, civil procedure, evidence, health law and economics, and jurisprudence. However, Posner is arguably best known as a leading exponent of the “Chicago School” of economic thought. I had always been interested.

Masse, Woods take team honors

Boudi, Baker are individual winners

By Mark VanDonselaar
Forum staff reporter

On Nov. 13, VUSL students had the opportunity to hear their fellow students participate in the final round of the Judge Luther M. Swygert Moot Court Competition.

The best Oral Argument in the final round, the winning team was awarded $200. Christopher Boudi won the honor of Best Oral Argument in the final round; Christopher Baker was given the award for the Best Brief. They each received $200 for their efforts.

This year’s issue was whether the First Amendment of the United States Constitution prohibits Central Boston Community College from terminating its contract with food services worker Abdullah Fahrami because of a student uprising stemming from a school newspaper article on Fahrami’s political ties. The problem was based on the 2002 Vanderbilt Moot Court Competition sponsored by Vanderbilt University’s College of Law.

Competitors received the debate topic in August and have been preparing their briefs and oral arguments since that time. Rounds one and two of the competition, which took place on Oct. 14 and 16, narrowed the field of competitors down to the “Sweet Sixteen.” By Oct. 23 the Moot Court Society Executive Board had narrowed the field of competitors even farther—to the “Elite Eight.” Professors Berner, Bodenstein, and Levinson judged the semi-final round, finding Christopher Boudi, David Masse, Amanda Waechter, and Jeffrey Woods to be the most worthy to compete in the final round.

Petitioners Boudi and Waechter were teamed together to present the position of the College, arguing that they should be allowed to terminate Mr. Fahrami’s contract. Together, Masse and Woods responded by defending Mr. Fahrami’s First Amendment rights.

Midterm election puts Republicans in charge

By Shane Cigel
Editor-in-chief

The recent changing of the guard in the U.S. Senate has brought up many questions following the midterm elections of Nov. 5.

Was the GOP that good on Election Day or the Democratic Party that bad, or both? And what does GOP control of Congress and the presidency for the first time in nearly 50 years mean for the United States?

What happened?

The Republican victories were due in part to the culmination of a well-crafted strategy and a high-risk gamble of President Bush and his political advisors. President Bush campaigned in 40 states and, along with Vice President Dick Cheney, raised about $180 million for their party.

“President Bush’s campaign had a lot to do with their success,” said VUSL Professor Robert Blomquist, “He went directly to battleground states and proved to be a stellar campaigner.”
November opinion poll

VUSL responds to midterm elections

By Jonathan Pasky
Copy Editor

It was a surprise of a midterm election this November, as the Republican party captured races across the country in a way for taking control of both the Senate and the House of Representatives, marking the first time since 1950 the GOP had achieved such a feat since the mid-1990's.

With the country facing war on two fronts-terrorism and Iraq—The Forum reflects on this election with pertinent questions on a subject which future lawyers are sure to have an opinion: politics.

Results

The first question we posed to the VUSL community was, "Do you think the new Republican Congress can succeed in getting its agenda passed in the next session?" 80.6% of those responding believed they could, while 12.9% disagreed and 6.5% were unsure.

Next, we posed the question, "Did President Bush's campaigning affect the outcome of the midterm election?" An overwhelming 93.5% gave an affirmative response, with 6.5% unsure. Not one respondent answered this question with a "no."

Finally, The Forum asked VUSL students, "Will the Democratic party rebound in the 2004 elections?" Here, 22.6% had answered in the affirmative, while 64.5% answered "no," and 12.9% were unsure.

Analysis

George W. Bush is a popular president, and it is evident not only in our poll, but in polls across the nation. The president typically gets 60% or above approval ratings halfway through his term. And that popularity carried over into these elections, as most of those responding to our poll felt the president's campaign caused the late surge by Republicans at the ballot box. One student even predicted, "Bush's popularity will carry him to a second term."

So will the Democratic party rebound from their loss this year? Already Richard Gephardt (D-MO) has stepped down from his post as House Majority Leader, paving the way for Nancy Pelosi (D-CA) to assume the position. She becomes the first woman to head a political party in either house of Congress. And Sen. Tom Daschle (D-SD) has just this week openly challenged the president's policy in Iraq of disarming Saddam Hussein as obscuring and weakening the U.S. attack on terrorism. Democrats hope their stance on these issues will help them recapture not only both houses of Congress in 2004, but the White House as well.

As another VUSL student surmised, the "overall victory [in the midterm election] was due to people realizing who's got the right ideas." Whether or not the declaration is true, the Republican party continues to control in January of both the presidency and the two houses of the U.S legislature.

As for the final test of the next Congress, November 2004 is less than two years away.

ELECTION

CONTINUED FROM PAGE 1

Bush stressed the perceived obstruction of homeland security and judicial appointments by the Democrats during his campaign, according to Blomquist.

While Bush helped tip the scales Nov. 5, several top Democrats criticized their party for failing to introduce a bold theme during the election campaign. They said candidates focused too much on specific issues such as the cost of prescription drugs.

While Democrats have also blamed Democratic leaders for not aggressively challenging the president on the economy, Professor Blomquist said Americans attribute the state of the economy to 9/11. "Most Americans are still shocked over 9/11 and the terrorist attacks," Blomquist said. "I don't think they blame the president for the economic downturn."

What does GOP control mean for the U.S.?

President Bush should now have an easier time getting his agenda through Congress. The Democratic-controlled Senate has been blamed for blocking measures such as homeland security and a number of Bush's judicial appointments.

"The only thing the Democrats have now is the power of filibuster," Blomquist said. "But the Democrats would be wise to use it to their advantage."

"The rules of the Senate give every member the ability to slow, stop and kill legislation. Controversial issues usually require 60 votes to cut off filibusters and pass the Senate." Blomquist said Democrats will look bad by continually filibustering Bush's measures and holding things up.

"Democrats should only filibuster on strong Democratic issues," he said.

Blomquist said Democrats may, for the first time in history, invoke filibuster on selected judicial appointments. The Democratic controlled Senate had blocked some of Bush's nominees, saying they were too ideologically extreme. Bush has spoken frequently of his wishes to appoint several conservative justices.

Blomquist said he thought Chief Justice Rehnquist would retire by next June. "Now's the time," Blomquist said.

Blomquist views Justice Scalia as the likely successor if Rehnquist retires. "That's a gamble Bush may be willing to take," he said.

Although Bush should have an easier time getting his agenda through Congress, GOP control of the House and Senate could end up being a negative. Up until now, Republicans have painted Democratic leaders such as Senate Majority Leader Tom Daschle of South Dakota as villains. Republicans now have the task of delivering solutions to vexing national problems.

"It's time for President Bush to move on now on issues such as the economy," Blomquist said. "Among the things Bush has on his agenda are permanent tax cuts, creating a Department of Homeland Security, a Medicare prescription drug program, and an energy bill that would expand domestic and oil gas drilling.

VU to feature Web-based registration

VALPARAISO -- The Registrar's Office and EIS have been working together to implement a web-based administrative services for students and faculty. The goal is to provide the kind of information and tools students and advisers need to make informed decisions about their academic programs. There are various services that will be phased in over the next semester.

Beginning in December, students and faculty will have access to a number of inquiry features on the intranet. Students will be able to see their class schedule, their semester grades, their GPA by semester, their transcript, and any test scores that they have (ACT, SAT, AP, CLEP, VU placement exam scores). Faculty will be able to see the same information for their advisees and, in addition, will also see their own class rosters and schedule.

In January 2003, the Registrar's Office is planning to activate the on-line degree audit (program evaluation) for all students. A student will be able to see the requirements for their current program and in addition, will be able to do "what if" kinds of evaluations for projected program changes. This will also be available to advisers so students and faculty will be working with a common understanding of the current program and in addition, will be able to do "what if" kinds of evaluations for projected program changes. This will also be available to advisers so students and faculty will be working with a common understanding of the degree requirements. The software will also handle exceptions, waivers, and substitutions.

The last major piece to be implemented will be web-based registration in April 2003 (March for law students). This is a very complicated process and there is a committee consisting of students, faculty, and staff members that will be assisting the Registrar in planning for web registration. The Registrar anticipates that a student will be able to register for classes from any location in the world that has internet access.

There are additional enhancements planned by other administrative offices once the registration and records functions have been activated.
Credit pitches marketing plan to VUSL

By Michelle Ross

Forum Staff Reporter

As we all know, last year the infamous U.S. News and World Report reported that VUSL's ranking had slipped from the third tier to the fourth tier. VUSL has done much to calm our fears about this traumatic event, which they have assured us isn't really as traumatic as the publishers of U.S. News and World Report would have us believe.

Last week, VUSL's new Director of Admissions, Tony Credit, hosted a meeting during Chapel break to discuss the ever-improving image of VUSL. Tony Credit comes to VUSL from St. Louis University School of Law in St. Louis, Missouri. Credit has worked for a variety of politicians as well as SLU in an attempt to increase market awareness of an already-existing quality product. In addition to the new director, VUSL has made more of an effort in keeping the student body updated with VUSL's info.

Credit said during his presentation that VUSL was a recipient of the Burton Award for its outstanding writing program. He said students at VUSL competitively compete with students from other prestigious universities such as Harvard and Princeton with regards to job placement and starting salaries. Credit said the biggest disappointment to him concerning VUSL is the student body's lack of awareness and ability to be proud of the wonderful things the school does. He said it is difficult for prospective students to realize the value of the school when its own students do not realize it either.

Credit said he wanted to make VUSL students proud of their school, and said there is no reason for the student body to be embarrassed of our ranking. If U.S. News and World Report was to analyze the job coming in for this year, VUSL would have jumped ahead to the second tier in many categories.

Students received an email from Dean Conison outlining relevant statistics to this year's applicant pool. The numbers reveal a dramatic increase in the number and quality caliber of students applying or inquiring to VUSL.

SWYGERT CONTINUED FROM PAGE 1

One person who has been very interested in environmental issues is Fulghum. She began her law career at a publishing company and then went on to work at a publishing company in the Circuit Court of Appeals in Missouri that Fulghum became very interested in environmental issues since the beginning of law school and there I got a lot of responsibility very quickly. Within two weeks of accepting the job, Fulghum was litigating a $22 million clean up.

Another advantage of working at a governmental agency that Fulghum sees is the great deal of "back-up" she receives from fellow attorneys. "It's nice having a great mix of people from all legal backgrounds, and it helps to make us stronger," Fulghum said. "Each of us brings something individually to the practice. You work with your colleagues and figure out what [are] your strengths and abilities to be the best attorney possible."

Right now Fulghum's work at the EPA is centered around enforcing the Clean Water Act in the Great Lakes area. There is limited public access to Lake Michigan in Indiana. While there is a pressing need for public ownership of the land, the EPA is working on cleaning the soil that was contaminated by industrial use before anything new can be built on the land.

Mary Fulghum speaks about her legal experiences as an EPA attorney during a recent MELC lecture.

Another problem the EPA is dealing with concerns E-coli contamination. The EPA is working jointly with an E-coli task force to find and control sources that have been forcing the beaches to close. Fulghum said she enjoys being involved in these multi-party negotiations. "I like chaotic situations. People begin by pointing fingers, forcing responsibility, and it eventually turns into a group that works together to create a legally-binding agreement that results in a clean-up of a site."

Fulghum did show concern about the recent election results. "A new administration may burden cases by adding extraneous information requests on a certain issue. If the administration wants to influence how laws are enforced, they can."

This concern, however, was countered with the fact that work in public service and nonprofit work has certainly not peaked. Regardless of the party affiliation in the federal government there will always be work to be done even though the nature of enforcement may change.

The FORUM

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A growing sense of apathy at VUSL

We at The Forum are concerned with the growing sense of apathy among students and faculty at VUSL. Low turnout at school-sponsored events seems to be the norm this year. An example is the Seegers lecture. Last year's lecture had the Tabor classroom filled to near capacity. But this year the classroom was only about half full, with many of those attending being undergraduates. Their numbers were especially evident when, towards the end of the lecture, they collectively got up and left, leaving the room practically empty.

Another example of apathy here at VUSL has been the low turnout at the Professional Development Series that Career Services has sponsored throughout the semester. Embarrassingly low attendance has been common for these events, even when alumni and guest speakers come from out of town.

Participation in VUSL-related social functions has also been sub-par. Both students and faculty have been, in large part, missing in action. The Cardozo Cup and the Halloween party are traditionally the premier events for the students and faculty to interact on a social level. But this year, the faculty was unable to field a team on the scheduled date and the make-up game was cancelled due to inclement weather. The SBA sponsored a party in place of the Cardozo cup in which one only professor attended. This was a source of great displeasure among the student body. The Halloween party was also something of a "ghost town," with students and faculty both choosing in large part not to attend. To the knowledge of this editorial staff, not one faculty member attended the Halloween party.

The general apathy of this school has affected this newspaper as well. In the first two issues of this year's Forum, we have placed ads encouraging students to submit opinions, letters to the editor, and personals. As of the date of this editorial, we have received not one of these invited submissions. We are very discouraged by this lack of participation and vigorously hope students will become more involved in the future. After all, this is your newspaper and without your participation, this paper will die.

One of the main reasons students come to VUSL is because of the close student/faculty interaction. Not having faculty participate in professional and social events here diminishes the uniqueness that VUSL advertises itself to possess. We hope faculty will hear our student cries and respond with better attendance at future VUSL functions, social and academic. In the same vein, we challenge students to increase participation in this newspaper and in school events in general.

Marc Saroufim

The only aspect that clearly distinguishes Turkey from other member countries is that the vast majority of Turks are Muslim.

Marc Saroufim

Turkey is facing an identity crisis these days. One of the earliest applicants to the European Union, the country continues to be shunned by the EU leadership, being told that numerous internal reforms need to be implemented before achieving EU member status.

Ever since the days of the Ottoman Empire, the government on the Anatolian peninsula attempted to be included in the Common Market. The EU was perceived to be regarded as a European power and to exert the world-wide influence that former colonial powers held. Today, the international scene is much different than the early 20th century, but European views on the status of Turkey have not changed in the least.

The majority of Turkish land is technically in Asia, with roughly 5% of the continent of Europe. The Turks like to argue that despite their geographical location, the country is unmistakably European. In a recent poll, over 70% of the country were in favor of joining the bloc. "But can you blame them? Simply looking at a few simple facts would lead most outsiders to agree with Turkey's claim of 'European-ness'."

But the first question to be asked is, "What does it take to be a European?" Is it a question of speaking a certain language, possessing certain cultural traits, ruling through a particular type of government, being located fully in Europe, or belonging to a particular religion? Lets tackle each of these factors and try to reach a consensus.

We can throw speaking a certain language right out. The EU currently has 20 countries and 51 official languages. With the admission of 10 extra countries to the already-existing 15 members in 2004, the number of official languages is likely to rise even further. In fact, translators will command the largest profession in the EU bureaucracy. So the fact that Turks speak Turkish should not be a decisive issue at all.

Cultural traits are as varied as languages spoken throughout the EU member countries. Without going into too much detail, it should be obvious that Dutch culture is clearly distinct from Italian culture that is distinct from Swedish and so on down the line. English tea-time is not practiced in Germany, much like eating fried sheep intestines is not practiced in Germany, intestines is not regarded as a Dutch culture is clearly distinct from Italian culture that is distinct from Swedish, and so on down the line. English tea-time is not practiced in Germany, much like eating fried sheep intestines is not practiced in Germany, intestines is not regarded as a cultural trait.

The only aspect that clearly distinguishes Turkey from other member countries is that the vast majority of Turks are Muslim. The Forum
A letter from the dean

By Jay Consion

Two weeks ago, I spent three days in Grundy, Virginia, chairing a team that had been assembled by the American Bar Association to inspect Appalachian School of Law. The American Bar Association accredits law schools, and as part of that process, send a team of about 5-7 individuals to conduct on-site inspections. (YUSL's last one was held in 1998.) The purpose is to help the ABA determine whether the school complies with the accreditation standards, and it is intended to focus on the basic facts. But, of course, when one is at a law school for three days, one can also get a good feel for the school's general strengths and weaknesses, and even get a sense of its culture.

Appalachian is in many ways very different from Valparaiso. It is situated in a remote part of far western Virginia, only 30 miles from Kentucky but two hours from the nearest interstate. It is very young (it opened its doors in 1996), is in a tiny town (the population of the entire county is little more than that of the population of Valparaiso), draws students largely from Virginia and Central Appalachia, has a much smaller student body andDraws students largely from Virginia and Central Appalachia, has a much smaller student body and faculty, has found this strong sense of closeness and common mission. Finding it only in a very young school, still struggling to establish itself, reinforces how vital it is to find it in a well-established school such as Valpo.

As you know, at least from my recent e-mails, things look very good here. Our applications have increased substantially. As of today, they are up 108% over last year, and the number of applicants with high indicators (LSAT and UGPA) is up as well, in some cases dramatically. We are drawing applicants from a wide range of colleges, including prestigious ones such as Cornell, Berkeley, and Michigan, and are drawing a much more diverse group of applicants. This success results from the efforts of all of us, and you can congratulate yourselves for helping make it possible.

"Recruiting a new class really is a group effort, and the students are vital, both by giving the school its character and serving as its greatest salespeople. I thank all of you who have helped or who have volunteered to help with Meet Valpo Law Days and other admissions office programs, and I thank all of you for making this school such a good place for other students to attend.

Something that is essential to our recruiting, and which very much depends on you, is success on the bar examination. Again the news is good here. In Indiana, our pass rate was indistinguishable from the state rate. In Illinois and Michigan, we were above the state rate. In other states the information is spotty and the number of takers too small to give any real indication of how little information we have looks good. This is good news for those who we招揽 and good news for the school.

Last spring, I urged the graduating students to treat the bar examination seriously and to do all they could to pass on the first try. I emphasized that first-time bar passage is important, not only for one's own success, but for the success of the school. Bar passage affects our reputation with employers, our ability to recruit students, and our standings in certain ranking schemes. It is thus important to everyone in the Valpo Law community.

I have been informed that some did not like to be told this, but it is true and it is important. Our bar passes so far this year seem to affect our ability to judge the facts of any one issue in a logical way. This reasoning is important to me because a legal education is required from the state bar-related organization (ICLEF), and we're doing a live bar review course for our students. And that is true when you treat the exam as important, prepare for it as soon as possible, and focus on your or her or her energies on helping the others as much as possible between graduation and the exam.

The recently-graduated class took the exam seriously and helped themselves, all of you, and the school as a whole.

Our graduating class is particularly strong, due to that class. I look forward to offering congratulations and thanks to all of you.

Not-so-obvious gun culture

By Monty Arvin

Contributing Opinion

Our society values cultural awareness. Elementary and High School teachers promote various cultures through lessons plans, films, plays, etc. Universities have complete courses dedicated to certain ethnic, racial, and sexually oriented groups. Police and military personnel must go through diversity training.

The obvious ultimate goal of such practices is to end the ethnic, racial, and sexually oriented groups. Police and military personnel must go through diversity training. The obvious ultimate goal of such practices is to end the ethnic, racial, and sexually oriented groups. Police and military personnel must go through diversity training.

But the process that affects us all, and we all need to work toward the common goal of a strong bar passage rate. That is why the school has developed programs such as our academic support program and bar review classes. We are developing the time that is your seed that is your...
VUSL professors debate issue of abortion

Professors Lind and Stith recently participated in an "Open Forum on Abortion." The following are the main arguments presented by both sides:

Logic, Policy, and Abortion

by Professor JoEileen Lind

The following is a logical critique of the soundness and validity of the pro-life argument for criminalizing all abortion. The conclusion is that the argument is fallacious, as it stands for a number of different reasons. The only way to make it plausible is to assume an additional set of norms (values), most of which are religiously based. Assuming these additional values is problematic for two main reasons: 1) there is no consensus on these values in the American society and, 2) being matters of faith, the values are unprovable.

The Pro Life Argument

1. Assumption: Persons have a right to life.
2. Assumption: The fetus is a person upon conception.
3. Abortion kills the fetus.
4. Abortion kills a person, even at the moment of conception (by nos. 2 & 3).
5. Abortion violates a person's right to life (by nos. 1 & 4).

Therefore, abortion should be illegal under all circumstances.

This argument is valid (i.e., deductively true) only if a number of presuppositions are true and if a number of ambiguities can be clarified.

First, the term "person" is a normative, not a biological, concept. And the "facts" of biology cannot take us logically to the "shoulds" of morality, as philosopher David Hume demonstrated long ago. Thus, this argument is valid only if "persons" are defined to include the fetus and more particularly the fetus at the moment of conception. This is difficult to do without resorting to unprovable religious beliefs that a fetus is a person, because it possesses a soul at the moment of conception. Without resort to such beliefs, the idea of a "person" is ambiguous so that the argument cannot be deductively true.

Second, the pro-life argument is valid only if the right to life is unambiguous. What is a right? What is a right to life? Are there qualitative components to the right of a right to life is ambiguous, then the argument cannot be deductively true.

Even if the fetus is a person, and even if the notion of a right to life was unambiguous, this argument is valid only if the right to life is absolute, or near absolute, so that it trumps the mother's rights to life, equality, liberty, and/or privacy. As a social group, we sacrifice innocent life on a daily basis for other, often trivial, values. For instance, what is the moral status of a policy to invade Iraq, which will include the intentional dropping of weapons of mass destruction (bombs) on targets that will include innocent children? What are the special reasons for treating the right to life as absolute or near absolute in the context of reproduction? Arguments that attempt to avoid this question often contain, as an unexpressed premise, that the ethical theory of natural rights is true. This is a highly debatable assumption in moral and political philosophy. Moreover, it does not answer the difficult question of how to resolve conflicts between absolute or near absolute rights.

Even if the fetus is a person, and even if the right to life is absolute, criminalizing abortion is not the only acceptable moral response. First, criminalizing abortion will not stop abortions. Women will obtain them illegally and wealthy women will be able to obtain safe ones, whereas poor women will not. There are other, less restrictive, and socially divisive, means for reducing the number of abortions. These include better access to information about reproduction, better access to more effective birth control, more financial support for mothers, including publicly funded day care, and the like. These means are important, because criminalizing abortion has an extreme differential impact on women and the poor. Hence it raises severe problems in distributive justice.

Equality and Hope

By Richard Stith

America started off with a great ideal: All people are created equal. We didn't live up to that ideal right away, because we included only white males. But at least we moved in the right direction. We began to include blacks and women as equals. We had a long way to go, but we included more and more people in our community.

Until 1973, in Roe v. Wade, when the U.S. Supreme Court betrayed our American tradition of inclusion, by excluding unborn children from the human community. In legalizing abortion all the way up to birth, the Court decreed the most massive exclusion in our nation's history. The Court excluded every single one of us, during the first nine months of our lives.

In 1997, the U.S. Court of Appeals for the Ninth Circuit read Roe to say there is diminished state interest in protecting us at the other end of our lives as well. The only dispute on the Ninth Circuit was about whether all disabled people lose state protection from euthanasia or only "non-­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­�
Justice Stevens, States’ rights are in again

In yet another intellectual brain fart from Gerald Ford’s lone Supreme Court nominee, Justice John Paul Stevens noted how troubled he is regarding how the nation’s highest court has been interpreting the Constitution.

Last month, Stevens told a crowd at the University of Illinois College of Law that the Federal government. Washington could compel States to be parties in actions taken in federal court. It must be noted that the Rehnquist Court has a track record of attempting to shore up the erosion of the States’ rights that has plagued Supreme Court decisions since the New Deal. The Eleventh Amendment was put on the back burner and the Commerce Clause of Article I, Section 8 was exposed as a blank check for the Congress.

So now, the Court’s oldest justice seems to be longing for the old days. As far as I’m concerned, he can wallow in his reflections. He just fails to understand that a majority of his colleagues approach the Constitution in a way revolutionary to modern times... they actually read it. The States are the source of all power held by the federal government. Washington only exists because twelve independent, sovereign bodies came together in Philadelphia (Rhode Island wasn’t at the Constitutional Convention) and decided to create a servant to handle very specific and finite tasks.

As written in Federalist Paper #46, “The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the State governments are numerous and indefinite.” The great fear of the Founders was that persons like Justice Stevens would be in a position to claim otherwise.

To put it another way, think of the federal government as a waiter serving fifty guests at a restaurant. The duty of the waiter is to take the orders, deliver the food, and accommodate the guests upon their request. Stevens and other Constitutional illiterates would prefer to see these restaurant guests get permission from their server as to what to eat, what to drink, and whether or not they can use the bathroom.

If it sounds absurd, that’s because it is. The States are the arbiters of America’s affairs, not the federal government. But this simple fact seems to be quite confounding to a lot of people. No matter how egregious the claimed injury or how high the demand for justice that might be heard, the federal government has no legitimate foot to stand on if it tries to drag a state into court. The only justification comes from decades of fundamental philosophical and historical incompetence on the part of the federal judiciary.

This evisceration of state sovereignty and immunity is, in the words of Oliver Wendell Homes, “an unconstitutional assumption of powers by the Courts of the United States which no lapse of time or respectable array of opinion should make us hesitate to correct.” Hopefully President Bush and the newly emancipated Senate can see it to that the Supreme Court won’t slouch back to such a state of judicial apostasy anytime soon.

Senator Jesse Helms, we thank you

Jesse Helms is the senior senator from North Carolina and is retiring from the Senate at the age of 81. I thought it only fitting that we pay tribute to Jesse Helms on his departure from the U.S. Senate while we take note of the Republican victory there. Jesse Helms is widely admired and respected in the U.S. Senate, as the reams of tributes to him from his fellow senators will attest. He has been admired for his principled stance on just about any issue, respected for his unwavering devotion to his cause, and deeply liked for his gentlemanly ways.

Helms has served for 30 years and can be credited with helping bring down communism worldwide, both personally for his work on foreign relations in the Senate, and indirectly through his support of Ronald Reagan.

Arguably the most conservative senator in a long time on almost every economic, defense, and social issue, Helms has been a hero to the Right and a villain to the Left. For a lot of Republicans who worried more about getting along or keeping their seats than principles, Helms’ bulldog attitude on moral issues made him difficult to work with. He was occasionally referred to as unpleasant.

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“Senator No” during the periods when Democrats controlled the Senate, because the Republicans would sometimes work out a compromise bill with the Democrats, and the vote would be 99-1, with Helms the lone dissenter.

Jesse Helms’ stance on many issues have brought him into wide disapprobation by the left-wing media, but when asked for his reasons, he has never been at a loss for a legitimate, common-sense explanation of why a measure or proposal was a bad idea. For example, when it was reported that the National Endowment for the Arts had provided moneys in support of Andrew Serrano’s “work of art” PissChrist, a crucifix (not made by Michelangelo) in a jar of the artist’s urine, it was Helms who led the charge to have the NEA defunded. When the Left attacked him as a government censor, and asked if Michelangelo’s David would have been equally offensive, Helms responded that a refusal to grant taxpayer money in support of anti-Catholic bigotry was hardly the same as government forbidding the creation of art, and that Michelangelo had not gotten any support from the U.S. government.

So while we celebrate (or mourn, depending on your viewpoint) the Republican victories in the election, I think it appropriate to remember that come January, the Senate will lose one of its finest members, and conservatism one of its most vocal and effective public servants. Thank you for your service to the country, Senator Helms.

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"Mulholland Drive"

"Jackass"

Out in Theaters: Mindless Humor

T.V. was not enough, now we have reality movies (by the way, this is not a reference to documentaries). MTV has brought to the screen one of its prime time attractions, "Jackass".

If you are not familiar with the premise of the series "Jackass", it's simple: stupid stunts involving pain, and usually some kind of injury. The motto of "no pain, no gain," whatever that gain may be, has been extended to the movie "Jackass".

The cast of characters remains the same—Johnny Knoxville and Steve-O to name two—and it appears this gang of unsightly voyeurs and daredevils has outdone themselves. (Please note some of the "Jackass" "stunt" performers are women.)

In "Jackass" the stunts cover a large range: stupid, disgusting, unbelievable, insane and embarrassing. The movie offers men dancing in g-strings, bicycle jousting, off-road tattooing, boxing, a little more vomit than necessary, and a toy car inserted in an unsightly place. There were quite a few disgusted people in the audience, but no one got up and left the theater. There is something mesmerizing about people getting hurt on purpose.

If you are looking for mindless humor, then give "Jackass" a chance. My only warning: If you are weak of stomach or prudish, this movie probably will not be your bag.

"I am thankful for my friends, family and the fact that Evidence is almost over!"

-Katie Wolf, 2L

"I am thankful for my healthy family, a Republican Senate, and that I'm still in school."

-Tyler Bellin, 2L

"I am thankful for my friends, family and the support and understanding that my family gives me. Even when I come home after a bad day at law school, which is quite often, they find "I am thankful for my wonderful family, a way to make me smile." - Jeremy Willet, 1L

"I am thankful for my daughter who helps me to remember to enjoy life and gives me a desire to do all things as well as I can."

-Jim Oppenhuizen, 1L

"I am thankful for my health and the health of my family. I am also thankful for my boyfriend who has supported me through this new experience, even though we are hundreds of miles apart."

-Tara Rusch, 1L

VUSL gives thanks...

VUSL students were asked, "What are you thankful for this Thanksgiving?"

"I am thankful for my parents because they are always willing to help me with anything I need."

-Angela Mattozzi, 1L

"I am thankful for my healthy family, a Republican Senate, and that I'm still in school."

-Tyler Bellin, 2L

"I am thankful for my friends, family and the support and understanding that my family gives me. Even when I come home after a bad day at law school, which is quite often, they find "I am thankful for my wonderful family, a way to make me smile." - Jeremy Willet, 1L

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"I am thankful for my health and the health of my family. I am also thankful for my boyfriend who has supported me through this new experience, even though we are hundreds of miles apart."

-Tara Rusch, 1L

"Besides being SO thankful for the arrival of Starbucks in town and the musical magic of Dave Matthews, I am also thankful for the people who have stood by me in this crazy world and for all of the fun times we have had."

-Courtney Duke, 2L

"I am thankful for my friends, family and the support and understanding that my family gives me. Even when I come home after a bad day at law school, which is quite often, they find "I am thankful for my wonderful family, a way to make me smile." - Jeremy Willet, 1L

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-Tara Rusch, 1L

DVD/Video Review: Somewhere Between Reality and a Dream

"Mulholland Drive" (2001) is truly David Lynch's creation. Previously, Lynch brought audiences Eraserhead, Blue Velvet and Dune. While most people slept through it, Mulholland Drive led Lynch to a nomination for Best Director from the Academy. This is not surprising because he has one of the most interesting directorial styles in the film industry. He also was the co-creator of television's Twin Peaks (1990-91), an off-the-wall series which ran for two seasons on ABC (a shifting time slot may have led to its demise).

"Mulholland Drive" centers on a young, naïve actress named Betty, who comes to Hollywood in search of fame. Naomi Watts, who is currently riding high on her performance in "The Ring," plays Betty. When Betty first arrives in Los Angeles, she encounters a lost amnesiac named Rita, played by rising Latina star Laura Elena Harring. Betty feels sympathy for Rita immediately and tries to help her bridge the gaps to rediscover her identity. Here the psychotic spins begin, and the center of this hypnotic film wraps around Rita's identity.

Thrown into a surreal, dream-like state, the audience is forced into a whirlwind of subplots, emotions, conspiracies and confusion. The film is disjointed, much like "Twin Peaks," and requires that the audience be in a constant state of thought. There are characters who seem out of place, spaces that seem to have no purpose, and eerie tangents where it is going.

Overall, "Mulholland Drive" is worth the watch. However, it is a movie that will take two and a half-hours of thought and concentration, so be prepared for mental exhaustion. If you are interested in films in the same vein as "Mulholland Drive," rent "Pi" (1998) and/or "Memento" (2000).
Faculty Profile: Mark Adams

By Jim Fraley

It’s Friday, last class of the week. You’re a diligent student, but even diligent students reach their limits. You think, with glee, ‘Yes! The weekend is here. I have three days to work on my office memo. Oh Joy!’

Then you think, realizing the thought of throwing back a few breath, that you are officially a law student. You snap out of it and focus again on the lecture going on in front of you.

The second hand on your watch seems to be moving the wrong direction. You take notes to stay awake and, finally, exasperated, you decide to cut to the chase and raise your hand with fervently to ask once and for all: “Will this be on the bar exam?”

Such an interjection may not be the swiftest thing a diligent law student can say in the middle of lecture and it may provoke a “My class is not a bar prep course” reply from an agitated professor. Nevertheless, everybody wants to be ready for the bar exam.

VUSL Professor Mark Adams is not only an instructor who frequently lets his students know which information is particularly important for the bar exam, he’s also director of the Indiana Bar Review Program for the Indiana Continuing Legal Education Forum (ICLEF). The program offers the advantage of live instruction, written feedback on practice exams, and will be held from June 9 to July 11 this coming summer at VUSL.

“During law school, you have to have a rigorous curriculum,” Adams says, “and that’s been a concern for faculty. Some students weren’t taking advantage of courses that challenged their abilities. I think that it’s a matter of making a good bar review program.

Adams adds, “What we’re doing with this program is spending a lot of time with students, taking parts of the exam over and over again. The main thing is meeting the needs of students with quality teaching so that they succeed on the bar exam.”

After earning undergraduate degrees in Art History and English, Adams was a high school history teacher for two years before going on to earn his J.D. at the University of Chicago. He worked for four years in Seattle, Washington, then two years as a lecturer at Indiana University School of Law in Bloomington, Indiana, before he came to VUSL eight years ago. Currently, he is building a local practice as an arbitrator, working with the National Association of Security Dealers, NIPSCO, U.S. Steel and the United Steelworkers of America.

For now, Adams plans to remain in Valparaiso, where he lives with his wife, Melissa, his son, Kelly, and daughters, Ingrid and Rosemary. “[VUSL is] a nice atmosphere in which to teach,” Adams says, “with good, supportive colleagues.”

Professor Adams added, “It’s not a cutthroat atmosphere and I enjoy working with the students here. I think the school attracts quality students as well as a faculty committed to a style of teaching that attracts a certain type of student.”

Horoscopes

By Heather Bui and Elyssa Meade

SCORPIO (Oct. 23 – Nov. 21) – You currently feel distant from friends and family. In order to regain your sense of a balanced life, take time off from work and have dinner with an old college friend. You won’t regret it.

SAGITTARIUS (Nov. 22 – Dec. 21) – You’re feeling confident and helpless. Take a drive in the country, but watch out for potholes! The scenery will refresh your tired mind.

CAPRICORN (Dec. 22 – Jan. 19) – You are very motivated right now! Focus your energy on an upcoming project at work and you will be rewarded.

AQUARIUS (Jan. 20 – Feb. 17) – Take care of yourself and relax. Productivity will increase when you are healthy and well rested.

PISCES (Feb. 18 – Mar. 19) – Life may not be what you pictured it, but there is hope. Take advantage of the help that is offered to you. If you do this, your life will become more like the postcard in your mind.

ARIES (Mar. 20 – April 19) – Be careful of who you trust. Certain people might be out to take advantage of your knowledge. Stay focused because success is within your reach.

TAURUS (April 20 – May 19) – Put effort into maintaining a long-distance relationship. Someone from your past may hold the key to your future.

GEMINI (May 20 – June 20) – Friends are becoming more important to your daily routine. If what you want is a distraction, hang around the library... trouble is sure to find you there.

CANCER (June 21 – July 21) – If help is what you need, don’t be afraid to ask for it. The smartest people utilize all of their resources.

LEO (July 22 – Aug. 22) – Breathe, Leo. Life might seem like an empty pit at the moment, but fear not! Friends and family will bring issues you’re dealing with into perspective.

VIRGO (Aug. 23 – Sept. 21) – Stress is upon you. If you don’t learn to relax you might make things worse, both at work and in your private life. If what you truly crave is a change—take initiative and do it yourself.

LIBRA (Sept. 22 – Oct. 22) – Get some balance in your daily routine. Try not to completely sacrifice living for working.

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Law Students and Professors:

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Student Profiles

By Sean Campbell

Name: Doug Winkle
Hometown: Wakarusa, IN
Family: Dad: Jim; Mom: Mary; Sister: Julie
Undergraduate School: Western Michigan University
Undergraduate Degree: BA—Management

Why law school?
The law is fascinating to me. I have wanted to go to law school for a long time to hopefully become a criminal lawyer. I also didn’t have very much going on for the next three years.

Why did you choose Valpo?
I chose Valpo because it was close to home, and the money was nice. The people were also really nice when I came to visit. Also, Harvard and Yale only got one tie...Valpo got four!!!

What organizations are you involved in?
Phi Alpha Delta, Clandestine Consortium of IL, Shepardizers

Favorite Class?
Stith’s Criminal Law—It’s captivating!!!

What is your dream job?
Being a high-risk process server in Gary

Do you think Judge Wapner from People’s Court agrees with Judge Posner on most law-related issues?
I think so. I’m not sure, but I think I’ve seen some Posner like thinking in some of his decisions. It doesn’t really matter though. They’re both pretty influential intellectual muscles. When either one rules, the world listens.

Who would you rather have defend you if you were charged with murder?
Johnnie Cochran or Matlock?
Matlock... Even though Cochran has the glove thing going for him, Matlock always had the sneaky surprise witness at the end that would get you off. Also, the rules of criminal law don’t seem to apply to him either.

Would you date a teenager?
No, but the elderly are always a possibility.

Undergraduate Degree: BS in Public Affairs

Why law school?
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If you could have both, do you think they would work well together?
No, I just don’t think they would like each other.

What do you do when you’re not studying?
I spend time with family and friends, bargain shop, and take naps.

Do you believe in UFOs and aliens?
No, I’ve never had a personal encounter, but I think there is something out there.

If you had to drive cross-country, which car would you rather drive—
The General Lee from The Dukes of Hazard or Kitt from Knight Rider?
KITT. It doesn’t get any better than a talking car.

If Tony Blair could run for President of the United States, would you vote for him? That would depend on his platform.

What CD do you have in your car right now? A CD that someone burned for me with country, rap, and a little bit of everything on it.

Who was more influential during their heyday—Abba, Christopher Cross, or Foreigner? Abba, based on the fact that people still request their songs at parties.

Name: Pamela Leigh Street
Hometown: Wakarusa, IN
Family: Mom (Laurelyn), Dad (Jim), Stepmon (Joane), Dog (Jackson), and a Cat (PeeWee)
Undergraduate School: Drake University—Go BULLDOGS

Undergraduate Degree: Indiana University

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Who was more influential during their heyday—Abba, Christopher Cross, or Foreigner? Abba, based on the fact that people still request their songs at parties.

Name: Danita Davis
Hometown: The ever exciting Valparaiso (yes... I am a townie)
Family: Older sister named Chanda, twin-sister named Tiffany, Mom named Nance, Dad named Steve, and a dog named Casey
Undergraduate School: Drake University- Go BULLDOGS
Undergraduate Degree: Poly-Sci

Why law school?
I wanted to serve my community through the practice of law (O.K.: I didn’t know what else to do with my life or degree, so I thought this would be fun... eh)

Why did you choose Valpo?
I actually followed by boyfriend at the time back to the area. We have since parted ways. Just don’t mention Notre Dame football.

What organizations are you involved in?
I’m on Exec. Board of Law Review, Phi Alpha Delta, graduation steering committee, and I play intramurals.

Favorite Class?
I loved corporate finance with Prof. A. Myers

Where will you be working next year?
Haven’t a clue. I just hope to be working. Any ideas?

What experiences at Valpo Law do you think will help most in your professional career?
My externship at Ispat Inland was wonderful—nothing beats practical experience. And of course, it helps to hang out with RMF.

What are you going to miss most about Valpo Law?
Career Services candy and bagels from the lunch ladies.

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Johnnie Cochran or Matlock?
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Who was more influential during their heyday—The Violent Femmes, Velvet Underground or Kiss? Kiss. Men comfortable wearing make-up, how influential is that?
How do you see the role of the advocate in the appellate system? In your view are advocates approaching that role correctly?

AM: How do you see the role of the advocate in the appellate system? In your view are advocates approaching that role correctly?

RP: The role of the advocate is to cast the facts and the law in the light most favorable to the client to the extent that the record, the precedents, the rules of judicial ethics, and the other constraints on advocacy and decision-making, permit. This is generally understood by lawyers, but where they fall down is in not appreciating the extent to which judges are pragmatists who are trying to reach reasonable results, and who want there­ fore to be informed by the lawyers concerning the practical consequences of the positions that the lawyers are urging. The judges don’t want just to be hammered by citations to statutory text and precedents.

AM: Are you satisfied with the quality of advocacy you see in your court? Where do most of the failings occur?

RP: The quality of advocacy is not on the whole very good. Generally, in cases involving large monetary stakes, the lawyers are quite good; and the lawyers employed by the U.S. Department of Justice also tend to be very good. The weakest advocacy is on behalf of crimi­ nal defendants, I assume mainly because the financial rewards for representing criminal defendants are generally meager.

AM: Should law schools change their core requirements in order to better prepare students for post-­graduate employment? Should there be other requirements?

RP: I would like to see a little more emphasis on the one hand on practical learning, such as clinical courses in evidence, and on the other hand on fields relat­ ed to law, such as economics and statistics, that can provide tools that lawyers need in the modern practice of law.

AM: What advice would you give to law students to help them prepare for life after graduation?

RP: I don’t have any useful advice.

AM: What influence did clerk­ ing for Justice Brennan have on you?

RP: Very little, except to induce skepticism about the intellectual quality of the Supreme Court.

AM: What is the role of the dissenting opinion on the federal appellate bench?

RP: There are two functions. One is simply to register dis­ agreement; the other and more important is to signal to other courts, including the Supreme Court, that there is an alternative way of viewing the issue from that adopted by the majority.

AM: Is there a fine line between clarifying the law and actually changing precedent? Does it ever occur where one judge may feel the law is being clarified, but your opinion is that precedent is being changed?

RP: The line is very fine, indeed invisible. The reason is that a precedent is not law; it is a source of law; and its precise force is a matter of interpretation by later judges. Until the prece­ dent is interpreted, the law is inchoate.

AM: With respect to horizon­ tal media mergers, do they represent a special class of antitrust analysis because of possible First Amendment implications, or does the only concern remain whether the combination would enable the merged entity to raise prices by restricting output?

RP: The latter.

AM: So, is a law and econom­ ics approach applicable “across the board”?

Specifically, what type of role can efficiency play when deal­ ing with issues such as the First Amendment or civil rights?

RP: Yes, I think it’s applicable across the board; my book Economic Analysis of Law, now in its fifth edition, and shortly to be in its sixth edition, has several­ chapters dealing with constitu­ tional issues, including free speech, search and seizure, and racial discrimination.

Author’s note: See also Laddington v. Indiana Bell Tel. Co., 966 F.2d 225 (7th Cir. 1992) (applying economic analy­ sis to determination of whether a skeletal argument is waived); United States v. Caputo, 978 F.2d 972, 974-75 (7th Cir. 1992) (applying cost-benefit analysis to plain error question in criminal case); Roland Mach. Co. v. Dresser Industries, Inc., 749 F.2d 380 (7th Cir. 1984) (eco­ nomic analysis applied to pre­ liminary injunction standard); Merritt v. Faulkner, 679 F.2d 761, 768-70 (7th Cir. 1983) (Posner, J., dissenting) (arguing that if a prisoner had a good case, the market would provide counsel); see Richard A. Posner, “Free Speech in an Economic Perspective,” 20 Suffolk Law Review 1 (1986).

AM: Do you have a favorite opinion that you have authored?

RP: Not a single favorite, but a number, mainly dealing with intellectual property and First Amendment issues, that I partic­ ularly like, such as Gracen, Piarowski, Haynes, Ty (two opinions), and American Amusement Machine—but this is a very partial list.

AM: In light of your recent criticisms of public intellectu­ als in your book by the same name, what public intellectu­ als, if any, do you admire today?

RP: Quite a number—so here is just a sampling: Christopher Hillches, Andrew Sullivan, James Q. Wilson, Gary Becker, Larissa MacFarquhar, Denis Dutton, Henry Kissinger, Larry Summers, Milton Friedman, William Galston, Alvin Toffler.

AM: I once read that your favorite movie was “8 Heads in a Duffelbag.” Is that true?

RP: One of my favorites. But I do tend to prefer comedies, including Woody Allen, Meg Ryan, Ben Stiller, Hugh Grant, the Marx Brothers, and (as in 8 Heads) Joe Pesci.

AM: What five people, living or dead, would you most like to have dinner with?

RP: Saline Coasar, Jesus Christ, David Hume, Abraham Lincoln, and W. B. Yeats.

AM: Thank you.
Notre Dame and Iowa are the stories of college football

The college football story of the year has to be the resurrection of Notre Dame under new head coach Tyrone Willingham. Willingham, from the University of Washington, will standout and claim the most recognizable college football “franchise” from the dismal Bob Davie era, and return the Irish to the national stage. The hapless Davie, who was fired at the end of last season, is a distant memory in South Bend. Willingham surprised many in the college football world by coaxing the Irish to eight straight victories this season. Despite the disappointing loss to Boston College, the Irish are likely to get a BCS bowl if they can beat Big East powerhouse Rutgers and #9 Southern Cal. They even have an outside shot at the National Championship if Miami and Ohio State drop one of their remaining games and another top five shakeup. Miami finishes up with #7 Virginia Tech, while Ohio State has a date with their evil nemesis from Ann Arbor.

If Ohio State plays for the National Championship, they’re going to the Fiesta Bowl, not the Rose Bowl. And it’s possible Iowa won’t either.

I don’t think I’m going out on a limb, but Tyrone Willingham has already earned coach of the year honors. He’s taken a directionless band of underachievers under Davie and made them a National Championship contender in one year. The Irish moved from the status of the unranked in the preseason to the top ten. More importantly, however, is the restoration of that old Irish mystique. Teams have been beating up the Irish the past few years under Davie, but this year it’s all about payback!

Hey, what about the Hawkeyes? The runner-up college football story of the year has to be those amazing miniature Pittsburgh Steelers, the Iowa Hawkeyes. This Irish and Hawkeye lovefest has to have the BCS committee NOT obligated to take the BigTen runner-up, even though the Hawkeyes really aren’t the “runner-up” team in the BigTen. The BigTen Rose Bowl bid has been all TCU’s for a long time, and the Rose Bowl has the choice of the next pick in the selection process. Should things stay the same, who could guess who could get that spot? Yup, the Irish. This is just one of the reasons why the BCS should be abolished or changed.

The BigTen and the Pac-10 have been playing in the Rose Bowl since...well...a long time ago. I don’t know about you guys, but last year’s National Championship game between Miami and Nebraska in the Rose Bowl just didn’t seem right. If the BCS is going to use all of their wacky, Avant-garde computer formulas to determine who’ll be playing for the National Championship, can’t they just invent something equally superficial like a mini “Super Bowl”? To be played in a venue that does not interfere with traditional post-season conference ties?

Play the game in Tampa, or somewhere else in Arizona. Call it something else. Give it a name that doesn’t have the word “bowl.” Just call it the championship game!

So where does that leave the Hawkeyes? It could leave the Hawkeyes in a disappointing Capital One Bowl, facing a team like the Irish in Orlando, Florida on January 1, while the Irish are playing in Pasadena. It’s possible the Bowl Committee, given a choice between Notre Dame and Iowa, would choose the latter. The Irish travel well and have fans everywhere.

The goods news for Hawkeye fans is that the BigTen will put an enormous amount of political pressure on the Rose Bowl Committee to select a BigTen team. The BigTen is a powerful organization and unlikely to hand Notre Dame a 14 million dollar check without a fight. And if the Rose Bowl Committee did select Notre Dame over Iowa, it could ultimately mark the beginning of the end of the BigTen’s relationship with the Rose Bowl.

The Irish’s fate is less clear. However, there are far more BCS opportunities for the Irish than most other teams. If the Irish finish in the top six of the BCS standings, they’re guaranteed an at-large bid because they don’t have any rules. They could end up in any number of bowl games, from the Rose Bowl to the Cotton Bowl to the Orange Bowl, depending how the top Ten teams fare in the final weeks of the season.

In fact Notre Dame played the toughest schedule in the country and was voted below a USC team with two losses. Granted, Notre Dame struggled with some weaker teams but so what? Those same people play Notre Dame like it’s their Super Bowl, and you just don’t see anyone playing quality teams the way the Irish have. Take their reward. A Ninth place voting position after one loss.

Now we’re left with the frightful specter of seeing Washington State in the Fiesta Bowl (it seems quite possible that Miami or Ohio State will lose). Yet Washington State #3 in the BCS, will play an impressive road game all season. Washington State played non-conference opponents like Nevada, Idaho and Maryland, at home while Notre Dame was playing at Maryland (22-0 win) vs. Michigan (25-23 with four extra point wins at 24-24 win). Each team has one loss but Washington State is ranked way ahead of Notre Dame. Why? The only tough road game Washington State played was a 25-7 loss at Ohio State. And Ohio State has not won an impressive road game all season either. Non-Conference opponents include Texas Tech, Kent State, Cincinnati and San Jose State. Ohio State could barely beat Wisconsin, Purdue, and Illinois on the road. Thus, national voters are going to be sending to these teams: this play all of your tough games at home, play in a good confer­ence, and select your team based on non-conference opponents and you’ll be rewarded. Ohio State is just not that good. If they play Miami they will be in trouble.

So we’re left with the prospect of seeing a weak team in this title game. A team like Iowa that started out unranked but now looks unbeatable, has no hope of getting in. Why? Because the voters won’t move them past teams like Washington State that have done nothing to earn such a ranking. I just want to know who Washington State has beaten. They did beat USC 30-27, but at home. At least the NCAATournament considers quality road wins. If Notre Dame wins at USC then it would be downright sick to vote Washington State ahead of an 11-1 Notre Dame team with so many quality road wins and a much tougher overall schedule. If Ohio State loses to Michigan and Washington State gets in vs. Miami, be prepared for a terrific route. It’s what you get from such thoughtless voters.

Notre Dame the victim of a flawed system

By David Masse
Forum Sports Columnist

Do you remember all those sportscasters and commentators who were complaining about BCS rule that put undefeated teams at the end of the season? What a joke? We may not even end up with two. Too many people underestimate how difficult it is to get through a 12 or 13 game season unde­feated. Those same people don’t understand the complexity of schedule strength, yet they will, in part, decide who plays in the Fiesta Bowl Championship in January.

College football operates under a flawed system. Too much emphasis is placed on a team’s last (or most recent) loss. The way in which the voters of the two main polls vote is as follows: Say you have two un­defeated teams ranked 1 & 2. Then 3 other teams all have one loss. If the #1 team beats the #2 team 20-17 in OT then the spectators rank team #2 below all of the other one loss teams, even if team #2 beat one of those other top ranked one loss teams. It’s stupid.

The only thing you can do is hope the Irish win their remaining games and finish at least #6 in the BCS. If Notre Dame wins at Florida State (34-24 win) then the Irish have past teams like Washington State that have done nothing to earn such a ranking. I just want to know who Washington State has beaten. They did beat USC 30-27, but at home. At least the NCAATournament considers quality road wins. If Notre Dame wins at USC then it would be downright sick to vote Washington State ahead of an 11-1 Notre Dame team with so many quality road wins and a much tougher overall schedule. If Ohio State loses to Michigan and Washington State gets in vs. Miami, be prepared for a terrific route. It’s what you get from such thoughtless voters.

Intramural update

“We just couldn’t win most of the big points (in the champi­onship match)”: In the volleyball news, Hardcore Timmy, a 2L team, ended their regular season 16-2 and was defeated in the quarter­finals. The team’s last loss was against the Law Firm. The Forum wishes to con­gratulate the team on their two successful seasons and the best of luck to all of the intramural basketball teams!