



FREE

Santa Monica Daily Press

February 26-27, 2005

A newspaper with issues

Volume 4, Issue 91

DAILY LOTTERY

SUPER LOTTO

4 10 15 23 39
Meganumber: 26
Jackpot: \$7 Million

FANTASY 5

6 16 20 29 31

DAILY 3

Daytime: 0 8 8
Evening: 1 6 3

DAILY DERBY

1st: 03 Hot Shot
2nd: 05 California Classic
3rd: 07 Eureka!

RACE TIME: 1:46:07

NEWS OF THE WEIRD BY CHUCK SHEPARD

Management consultant William Fried, who is a popular motivational speaker in public schools in the San Francisco area, probably wore out his welcome in January at the Q&A session following his "Secret of a Happy Life" presentation at Jane Lathrop Stanford Middle School in Palo Alto. Asked why he had included "exotic dancing" on his list of attractive careers for girls, Fried said the pay was great: \$250,000 a year or more, depending on a woman's chest size. "For every two inches up there," he told the class, "you should get another \$50,000 on your salary."

TODAY IN HISTORY

In 1951, the 22nd Amendment to the Constitution, limiting a president to two terms of office, was ratified.
In 1987, the Tower Commission, which probed the Iran-Contra affair, issued its report, which rebuked President Reagan for failing to control his national security staff.

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Judge rules video of police beating can be enhanced

Excessive force trial against three SM officers gets underway next month

BY JOHN WOOD

Daily Press Staff Writer

DOWNTOWN LA — A federal judge has ruled that amateur video footage of a May 2002 Santa Monica Police beating can be brightened, slowed down, paused and otherwise enhanced at trial so a jury can better see exactly what took place.

The decision by United States District Judge Audrey B. Collins came eight days after she indicated she would not allow the video footage to be played in slow motion, because it didn't reflect the pace of the events as experienced by the officers.

"This is not the speed in which it's happening," Judge Collins said during a pre-trial hearing last week at the Edward R. Roybal Federal Building and Courthouse in downtown Los Angeles. "That is not real life."

See **SHOW OF FORCE**, page 8

Paradise found



Devon Meyers/Special to the Daily Press

A recent rainstorm caused a rainbow to serve as backdrop for a Bird of Paradise, a plant native to South Africa but grown commercially in Southern California.

Ka-ching! Holiday sales a boon for merchants

BY RYAN HYATT

Daily Press Staff Writer

DOWNTOWN — Despite frustrations with foul weather and homelessness, retailers on the Third Street Promenade report that sales were up compared to last holiday season.

The board of the Bayside District Corp., which manages downtown Santa Monica along with City Hall, presented survey results this week, showing that 18 of 27 merchants (or 66 percent) reported sales revenues from the 2004 holiday season that were

higher than 2003. Twenty-two percent polled said figures were down, while 11 percent maintained business was the same.

Among the factors reported to have had a positive impact on business were new stores, holiday decorating and improved street

lighting on the Promenade. Good-weather days, the availability of gift wrapping, increases in tourism and less competition from Santa Monica Placewerealso positive influences. The aging mall, locat-

See **KA-CHING**, page 9



Nicky Five Aces/Five Aces Photography
OUT WITH THE OLD: The old Saint John's Healthcare Center building will soon be reduced to rubble.

Out with the old, in with the new at St. John's

BY RYAN HYATT

Daily Press Staff Writer

MID CITY — A major piece of Saint John's Healthcare Center history will soon be reduced to rubble now that its main building is being dismantled.

The main wing, erected 60 years ago, was closed for demolition Feb. 10. It will be replaced with the Howard Keck Diagnostic Treatment Center, scheduled to begin construction in four months.

"The main wing is completely vacant," said Terry A. Muldoon, Saint John's vice president of engineering services. "We are removing the hazardous materials



Rendering courtesy

Construction on the new Howard Keck Diagnostic Treatment Center is scheduled to begin in four months.

right now, severing the utilities."

Patients at Saint John's main wing were recently moved to its newest and largest building, called the north pavillion. The hospital is in the process of nearly two

decades of redevelopment as a result of damage sustained in the 1994 Northridge Earthquake.

The north pavilion, which opened Dec. 4, is a four-story facility that has 182 beds. It stands 85 feet tall and 600 feet long. It's curved and faces 23rd Street off of Santa Monica Boulevard. Patients moved to the building are being treated in the critical care, orthopedic and women's health units. Muldoon said each floor of the main wing will be removed from the "top down," once materials such as asbestos are removed, which was part of the original con-

See **SAINT JOHN'S**, page 9

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Santa Monica Daily Press

JACQUELINE BIGAR'S STARS The stars show the kind of day you'll have:
★★★★-Dynamic ★★★★★-Positive ★★★-Average ★★-So-so ★-Difficult



ARIES (March 21-April 19)
★★★★ You zero in on others. You don't need to let them know just how right-on you are. Let others remain whole and be themselves. Keep some insights to yourself — OK? Tonight: Go along with plans. Don't opt to be alone.



TAURUS (April 20-May 20)
★★★ A friend whispers in your ear. Thank this person for sharing. Express your caring in your lovable manner, be it with friends or family. Nurturing someone close will help this person feel comfortable as well. Tonight: Put your feet up.



GEMINI (May 21-June 20)
★★★★★ Others cannot help but pick up on that gleam in your eye. Your creativity flows into every sector of your life. You have fun no matter what you decide to do. You might feel like a kid. Why not act like one? Tonight: Have a party. You are in the right mood.



CANCER (June 21-July 22)
★★★ You enjoy yourself most at home. Invite others to a special party with a very unique theme. Allow others to participate in making your party happen. Express your caring through loving detachment. Tonight: Help a pal relax.



LEO (July 23-Aug. 22)
★★★★★ You tell it like it is, but with a special flair that is associated with your sign. A loved one or dear friend expresses his or her gratitude and caring. You have touched this person deeply. Caring flourishes. Tonight: Just be yourself.



VIRGO (Aug. 23-Sept. 22)
★★★★ Others let you know how much you are appreciated. However, you don't have to go overboard thanking everyone, certainly not by overindulging them. Remain more secure. You are the person others perceive you to be. Tonight: Make it your treat.



LIBRA (Sept. 23-Oct. 22)
★★★★★ The Moon in your sign draws many to you. In fact, you might be able to pull off a real coup if you so choose. Your laughter delights someone close. This person absolutely adores you. Be careful with his or her feelings. Tonight: Whatever you want.



SCORPIO (Oct. 23-Nov. 21)
★★★ Make yourself disappear, and finally you can have privacy. Whether enjoying a child or just letting your hair down, you will have a good time. Let your imagination run wild and be the director when making plans. Tonight: You don't have to tell all.



SAGITTARIUS (Nov. 22-Dec. 21)
★★★★★ Your very being emanates self-confidence and a willingness to risk. When with friends or in crowds, others gravitate to you. A family member has a lot to share. Consider a beautifying purchase. Tonight: Wherever you can be found, a party is happening.



CAPRICORN (Dec. 22-Jan. 19)
★★★★ Others admire your style and charming ways, even if you don't agree. Perhaps the compliments you receive might encourage you to add even more softness to your voice or your word choice. Tonight: Others seek you out.



AQUARIUS (Jan. 20-Feb. 18)
★★★★★ If you can, line up an adventure or happening. You'll flourish in a different environment. Let your mind and imagination loose. Be open to odd ideas and people. Perhaps you need to see the other side of life. Tonight: Try something unusual.



PISCES (Feb. 19-March 20)
★★★★ A special someone absolutely wants to spend time with you. With Venus in your sign, you become more and more desirable. You might want to rethink some personal decisions. They also might involve money. Tonight: Add that special touch.



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LOCAL



COMMUNITY BRIEFS

Literature and justice served up at SMC

By Daily Press staff

Santa Monica College next week will host two events that cover the future of Los Angeles' urban development and the kick-off of a literacy series.

"The Next Los Angeles: Struggle for a Livable City" is the title of a free lecture, which will explore alternative visions for achieving social and economic justice in L.A. The lecture will begin at 11:15 a.m. Thursday, March 3 at Santa Monica College.

Robert Gottlieb, Henry R. Luce Professor of Urban Environmental Studies and Director of the Urban and Environmental Policy Institute at Occidental College, will give the talk in the SMC Concert Hall, 1900 Pico Blvd. Seating is on a first-arrival basis.

The lecture is co-sponsored by the SMC Associates, a private organization that funds speakers and special programs on campus, and the University of California Press Associates, which provides support to the prestigious University of California Press.

The lecture's title comes from Gottlieb's book of the same name that was recently published by UC Press.

Gottlieb is considered one of the leading experts on urban, environmental and development issues in the Los Angeles region. He is the author or co-author of 10 books and has served on numerous policy-making, community and public interest boards, including the Metropolitan Water District of Southern California, Liberty Hill Foundation, Los Angeles Food Security and Hunger Partnership, and more.

For information, call (310) 434-4003.



ROBERT GOTTLIEB

Also on March 3, the Santa Monica College Spring Literary Series begins March 3 and will feature, among others, Khaled Hosseini, author of the acclaimed novel, "The Kite Runner," the book set in Afghanistan that has captivated readers nationwide.

This is the fourth semester that SMC has presented its literary series, which is free and open to the public. Seating is on a first-arrival basis. The lineup is:

* Thursday, March 3 at 11:15 a.m.: Tara Ison, who will talk about "Writers, Writing & the Writing Life." Ison, who teaches creative writing in Antioch University's MFA program, has had her work published in Tin House, The Kenyon Review, L.A. Weekly and numerous anthologies.

Her novel, "A Child Out of Alcatraz," was a finalist in the 1997 Los Angeles Times Book Awards. Her talk will be held in the Art Lecture Hall 214 on SMC's main campus, 1900 Pico Blvd.

* Friday, March 25 at 6:30 p.m.: "Many Voices, Many Styles: An Evening of Poetry by SMC Faculty & Students." The discussion, moderated by SMC English professor and author-poet Dan Cano, is being held as part of SMC's yearlong celebration of its 75th anniversary. The evening of poetry and discussion will be held in the SMC Concert Hall, 1900 Pico Blvd.

* Saturday, May 21 at 4 p.m.: Khaled Hosseini, a physician born in Afghanistan, will talk about "The Kite Runner," the tale of friendship, betrayal and redemption set in pre- and post-Taliban Afghanistan and in California. His appearance will also be in the SMC Concert Hall, 1900 Pico Blvd.

The series is sponsored by the SMC Associates, a private organization that funds speakers and special programs on campus, and the SMC English department. In addition, Hosseini's appearance is being cosponsored by the Santa Monica Public Library and is part of the Santa Monica Citywide Reads program.



SURF REPORT

Saturday the 26th is looking like a slightly smaller day as the NW fades. Overall, west-facing breaks are looking at waist- to possibly chest-high sets. Sunday the 27th is looking even smaller, knee- to waist-high or so. But then things are expected to change dramatically by Monday. Woo-hoo!

Write us at wood@smdp.com and tell us what the surf is doing today at your local break.

Today the water is:

59°

	LOW TIDES				HIGH TIDES			
	Morning	Height	Evening	Height	Morning	Height	Evening	Height
SATURDAY	4:08	1.0	4:25	0.2	10:05	4.8	10:45	4.7
SUNDAY	4:49	1.0	4:46	0.7	10:42	4.3	11:11	4.8
MONDAY	5:38	0.9	5:06	1.2	11:27	3.6	11:42	4.9
TUESDAY	6:41	0.9	5:26	1.7	12:30	2.9	N/A	N/A
WEDNESDAY	8:10	0.8	5:38	2.2	2:31	2.4	12:23	4.9
THURSDAY	9:59	0.5	N/A	N/A	1:24	4.8	N/A	N/A
FRIDAY	10:34	0.6	6:08	2.4	1:52	4.2	3:03	2.1

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THE Q-LINE RESPONSES ARE IN!

WE HAVE THE QUESTIONS.
YOU HAVE THE ANSWERS.
CHECK OUT THIS WEEK'S Q-LINE RESPONSES ON PAGE 4

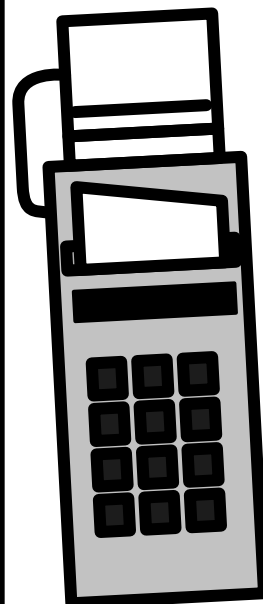


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OPINION

The QLine

NOT ALL ABOARD PLAN TO FREE UP BUSES:

This past week, Q-line asked:
Would you support closing a lane on each side of Wilshire Blvd. for buses only?
Here are your responses:

© "I know this isn't April's Fools Day — I checked the date on the paper, but this has to be some kind of joke. Because Santa Monica is so congested already that either it is some kind of joke or Zev Yaroslavsky is a sick mental case. For the congestion that exists now you can barely crawl up the street in your automobile."

© "Wilshire Boulevard in Santa Monica is heavily restricted by the new islands that adorn the boulevard. The islands are most attractive, with the palm trees, etc. and certainly I, as a local, enjoy them. But to further restrict Wilshire Boulevard, with a bus lane on each side of Wilshire for buses only would not only be asinine, it would be unproductive. Please note that Zev Yaroslavsky does not live in Santa Monica. Seems like we get outsiders trying to steal our town more than we want."

© "Since traffic flow on Wilshire Boulevard, here in Santa Monica, has been so severely compromised by the misguided addition of those center islands, the proposal to add a bus lane is ludicrous and mind-boggling and hazardous."

© "Mister Ron Yukelson nearly said it all in his letter to the editor (SMDP, Feb. 21, page 4) regarding a special bus lane to run along both sides of Wilshire Boulevard in various parts of Los Angeles, as well as Santa Monica, as proposed by county supervisor Zev Yaroslavsky. Mr. Yukelson did not mention the landscaped meridian strip that creates a zone of destination impediment for ambulances, fire engines and all other rescue conveyances who cross over the double lane to circumvent stalled traffic to rush to their destinations. Mr. Yaroslavsky has been on the gravy train so long he has lost his sensibility."

© "Closing two lanes on Wilshire Boulevard would create a monumental traffic mess for Santa Monica residents. The city has already narrowed the street with its beautification islands project. Closing two more lanes for buses would bring traffic to a standstill and take away valuable parking meters for people visiting local businesses. I've ridden the buses on Wilshire and they move well enough in Santa Monica, where the streets are narrower than they are in West LA. The bottlenecks are from traffic getting on and off the 405 and from heavy traffic in Westwood, which would not be affected by closing traffic lanes in Santa Monica. I doubt that this move would increase ridership on the buses and I won't hold my breath until Bobby Shriver gets out of his Mercedes for public transit to and from his office."

© "Hell no. Sounds like another boondoggle plan by our so-called traffic commerce. The buses are not the problem. I say, hell no."

© "Closing off a lane on Wilshire would just mess up traffic worse than it already is, but considering the Santa Monica City Council hired an idiot to do traffic engineering, it's probably just what they want."

© "I think it would be a wonderful idea to have a bus lane on Wilshire Boulevard. It'll reduce the congestion and the bad air and all those other rotten things in this lovely town. So I think it's an excellent idea, then maybe more people can use the bus."

© "I don't support exclusive use of the bus lane on Wilshire Boulevard, north and south. I would support maybe one side, having one direction, but not both sides. Wilshire is too busy a street and too small a street to do that to. If they want to, they should do that on Olympic, which has more lanes to deal with, and make it more efficient and effective that way."

© "Well, they've messed up all the other streets in Santa Monica so traffic is a complete mess, why should Wilshire Boulevard be left out? Let's get everybody in a traffic jam on all the streets of Santa Monica."

© "Didn't we learn anything from the permanent state of congestion caused by the bus lanes on Broadway and Santa Monica? Zev Yaroslavsky is pathetic. He is responsible for killing the subway and now he wants to clog Wilshire with bus lanes. Shame on him."

© "Bus lanes and car pool lanes all are social engineering. Maybe if they tried social engineering to stop subsidizing irresponsible and breeding people, dropping litters of human spawn, maybe we wouldn't need all these other social engineering projects."

© "Yes, I strongly support it. It's time the auto take a backseat to mass transportation."

© "I'm opposed to it for a various reasons. If you want to get some good reasons, there are a group of people that have tried that near Bundy and Wilshire ... and they have a lot of signs that say they don't like it there. I think it made too much congestion. So, I'm against putting a special bus line for Wilshire Boulevard."

The more things change, the more they stay same



MODERN TIMES

BY LLOYD GARVER

I have this uncle, Rip Van Garver, who just woke up after sleeping for 30 years. Some people think he slept so long because he was exhausted from working so hard as a political activist during the '60s and early '70s. Personally, I just think he found a comfy pillow. Regardless, here's the transcript of our first conversation:

ME: Uncle Rip, how are you feeling?

RIP: I'm OK. But I really need to brush my teeth. What year is it?

ME: 2005.

RIP: Wow. I've got a library book I better return pronto. So, nobody blew up the world. That's good. I guess the U.S. has been making sure the whole world listens to the U.N.

ME: Uh, not exactly.

RIP: It must be wonderful to live in a world where we'll never have another Vietnam. What's it like where everybody feels safe, knowing that no president will ever take us to war again without telling Americans the complete truth and having certain intelligence?

ME: Well, actually, we're fighting in Iraq now. And the intelligence was pretty messed up. You see, we were attacked, and ...

RIP: We were attacked by Iraq? No wonder we retaliated.

ME: No, Iraq didn't attack us. It's complicated.

RIP: Say, did the Republican party ever bounce back from the Nixon fiasco?

ME: Oh, yeah, the Republicans are doing just fine.

RIP: Good. America always works best when we have two strong parties with respect for each other.

ME: You've really been sleeping pretty soundly, haven't you?

RIP: There must have been some amazing scientific breakthroughs in the past 30 years.

ME: Definitely. Now you can cook a hot dog in a minute.

RIP: Why would you want to?

ME: Well, people are in a hurry.

RIP: Have scientists found an alternative for the gasoline-powered car?

ME: They've found some alternatives. But they're not making them that fast.

RIP: I guess not everybody's in a hurry.

ME: Also, remember when you studied American history, and read about evo-

lution being a controversial subject?

RIP: Sure, that was way back in the 1920s.

ME: Well, it's controversial again.

RIP: You're kidding. How about gravity? Do people still believe in that?

ME: Yes. And the theory that the earth is flat, not round, hasn't made a comeback. Yet.

RIP: With all this going backwards, I've got one important question: Is my Nehru suit back in style?

ME: No, but Paul McCartney sang at the Super Bowl.

RIP: At least the world must seem like a more humane place without the death penalty.

ME: Actually, the death penalty's back.

RIP: All over the world?

ME: No, most countries consider it inhumane punishment. But not us.

RIP: What about women's rights? Since Roe versus Wade, it must be nice for every American girl to grow up, knowing she'll always be in charge of her own body.

ME: Actually, Uncle Rip, there are a lot of people who want Roe versus Wade overturned. The government's gotten more and more involved in what people do in their private lives. They call it "morality and family values."

RIP: How about television? There were some great shows in the '70s. What's going on in TV today?

ME: Instead of having just a few channels, now there are hundreds of them. But most of the shows seem to be about daring people to eat bugs or wives swapping families.

RIP: What about that "morality and family values?"

ME: Hey, these shows make money.

RIP: I guess my eyes haven't adjusted to being awake yet. When I look outside, the air looks filthy, and I know we were making good progress against smog.

ME: It's not your eyes, it's the air. The environment's not such a big priority anymore.

RIP: This is terrible. How did Americans let so many things move backwards while I was asleep?

ME: I guess you aren't the only one who's been sleeping.

(Lloyd Garver has written for many television shows, ranging from "Sesame Street" to "Family Ties" to "Frasier." He also has read many books, some of them in hardcover. He writes the "Modern Times" column for CBSnews.com's opinion page and can be reached at smdp@lloydgarvermoderntimes.com.)

OPINIONS EXPRESSED are those of the writer and do not necessarily reflect those of the Santa Monica Daily Press staff. Guest editorials from residents are encouraged, as are letters to the editor. Letters will be published on a space-available basis. It is our intention to publish all letters we receive, except those that are libelous or are unsigned. Preference will be given to those that are e-mailed to sack@smdp.com. All letters must include the author's name and telephone number for purposes of verification. Letters also may be mailed to our offices located at 1427 Third Street Promenade, Suite 202, Santa Monica, 90401, or faxed to (310) 576-9913. All letters and guest editorials are subject to editing for space and content.



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COMMENTARY



GUEST COMMENTARY BY ALEX EPSTEIN

Risk managing drug intake is individual liberty

As studies continue to be released that explore the cardiovascular risks of Vioxx, Celebrex, Bextra, and other pharmaceuticals, the FDA has come under widespread criticism for failing to protect the public from “unsafe” drugs. The lesson commonly drawn from the studies is that the FDA needs a longer approval process and more drug bans, so as to, in the words of one “consumer advocate,” “ensure that the marketplace only has safe products.”

This is a deadly lesson to draw.

Consider the Vioxx study that set off the current firestorm. Many have claimed the study proves that “Vioxx causes heart attacks.” What the study actually showed was that among patients taking high doses of Vioxx for 18 months, 1.5 percent suffered a heart attack or stroke (none fatal), as against 0.75 percent of those taking a placebo. Far from proving that Vioxx is deadly and no one should take it, the study merely gives evidence that some people should not take it — namely, those at high risk of heart disease for whom there are safer but equally effective alternatives. But others would benefit from taking Vioxx, despite the study’s findings.

Take the case of an arthritis patient

profiled in the Wall Street Journal, who has no family history of heart disease, and who finds Vioxx to be the most effective form of relieving his pain. The patient judges that “If I look at the numbers, I just don’t feel I’m at risk” and concludes that with Vioxx off the market he is being deprived of his best option.

Or take the many arthritis patients for whom alternative drugs like Advil and Aleve pose a major risk of stomach bleeding, a side effect from which 15,000 die annually. For these patients, any heart-related risk increase associated with Vioxx, Celebrex, or Bextra, which are designed to prevent this side effect, may be far preferable by comparison.

The lesson to be drawn here is that drugs are neither “safe” nor “unsafe” as such; they carry different risks and benefits for different people. As a result, whether an individual should take a given drug or not is a contextual issue. It depends on the available knowledge about his genetic profile, the properties of the drug he is considering, and the resulting risks and expected benefits. It depends on the risks and benefits of his other options, including the often deadly option of inaction. These are some of the factors that an individual and his doctor

must take into account if they are to make an objective decision.

Unfortunately, individuals and doctors today cannot make such decisions — not consistently — due to the FDA’s coercive power to keep drugs off the market. The basic premise behind this power is that individuals cannot judge for themselves what drugs to take given their individual circumstances and risk preferences, and thus the government must make collective determinations of risks and benefits — and enforce them on everyone.

“To argue that people ought to be able to choose their own risks ...” says former FDA commissioner David Kessler, “is to impose an unrealistic burden on people.”

To prevent patients from choosing their own risks is to prevent the rational, contextual judgments that their lives require, which often means to condemn them to suffering and death. The history of the FDA is filled with bans or delays of drugs like Interleukin-2, TPA, and various beta-blockers that many would have benefited from had they been free to take them. The death toll from such bans is, according to conservative estimates, in the hundreds of thousands.

The flip side of the FDA inculcating the fiction that banned drugs are too risky

for anyone to take is that it inculcates Americans with the equally fictitious idea that approved drugs are guaranteed to be risk-free and benefit-laden for everyone. If it is true, as reports suggest, that numerous people who have taken Vioxx, Celebrex, and Bextra should have stuck with cheaper, more-tested drugs, then many individuals who have suffered financial hardship or even death will have done so because of the deadly premise of collective safety.

The era of the government collectively and coercively declaring which drugs are safe for Americans to take must come to an end, to be replaced by a new era of individual judgment and liberty. Many changes must be made to achieve this, but a first step is clear. While the government must continue to prosecute fraud in the manufacturing and marketing of drugs, it must end the FDA’s power to keep pharmaceuticals off the market.

(Alex Epstein is a writer for the Ayn Rand Institute (www.AynRand.org) in Irvine. The Institute promotes the ideas of Ayn Rand, best-selling author of “Atlas Shrugged” and “The Fountainhead” and originator of the philosophy she called “Objectivism.”)

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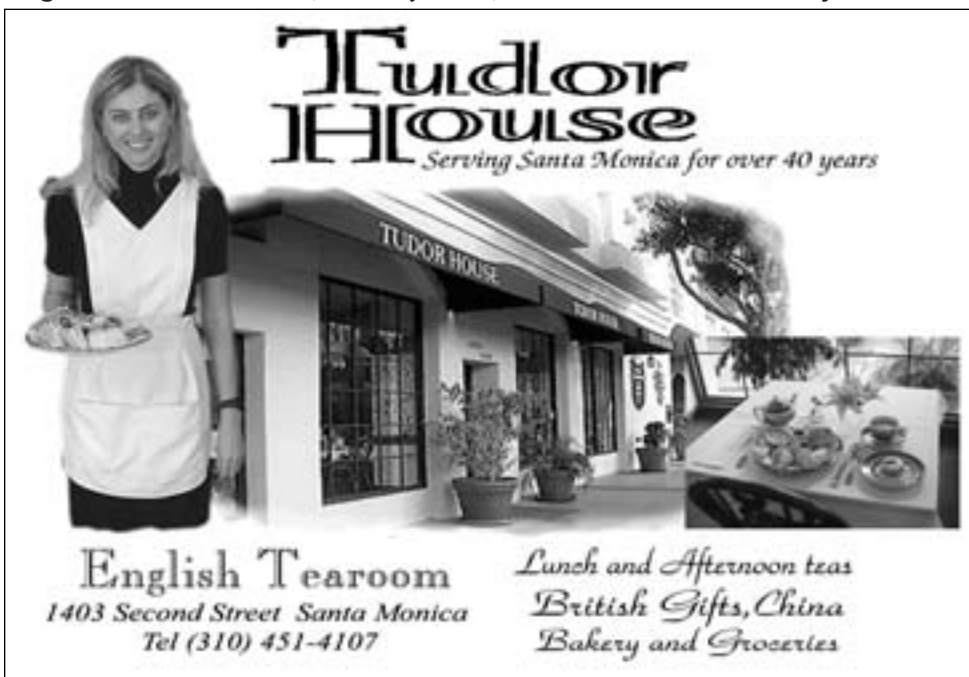
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STATE

Procreation seen as key to gay marriage rulings

BY DAVID KRAVETS

AP Legal Affairs Writer

SAN FRANCISCO — For the judges around the country deciding whether gays and lesbians should be allowed to marry, much of the legal analysis boils down to sex, or to put a finer point on it, procreation.

Opponents of same-sex marriage argue that the need to ensure the survival of the state and species — through the creation of offspring by a man and a woman — is the historical and institutional foundation upon which marriage exists.

"The fundamental right to marry has always been about procreation," Alliance Defense Fund attorney Glen Lavy recently argued to San Francisco County Superior Court Judge Richard Kramer, who is expected to rule any day whether California's ban on gay marriage violates the state Constitution.

Kramer is the latest among dozens of judges and courts nationwide to hear such arguments — that procreation is a loftier goal than ending what many gays and lesbians say amounts to discrimination.

But before judges decide whether supporting procreation should outweigh ending alleged discrimination, they must first decide whether the desire to create children even meets the "rational basis" test.

Specifically, the question is whether it is rational to limit the rights and privileges of one class of citizens — gays and lesbians — in order to promote the legitimate state interest of fostering the survival of the human race.

Courts in Massachusetts, New York and Washington state, in ruling against same-sex marriage bans, recently wrote that the state interest no longer applies in a modern world of artificial insemination and adoption — and that in any case, procreation isn't threatened by same-sex marriage.

"The precise question is whether barring committed same-sex couples from the benefits of the civil marriage laws somehow serves the interest of encouraging procreation. There is no logical way in which it does so," King County Superior Court Judge William Downing of Seattle ruled in August 2004.

But courts in Indiana and Arizona, facing the same sets of facts, have gone the other way. The Indiana Court of Appeals ruled in January that "there was a rational basis for the Legislature to draw the line between opposite-sex couples, who as a generic group are biologically capable of reproducing, and same-sex couples, who are not."

Edward Lazarus, a former U.S. Supreme Court clerk who in 1998 wrote "Closed Chambers: The Rise, Fall and Future of the Modern Supreme Court," said, "The states and opponents are trying to find criteria why marriages could only be reserved for men and women."

Voters, of course, are beholden to no legal balancing tests as they go to the polls. Voters overwhelmingly passed constitutional amendments banning gay marriage in all 11 states where the question appeared on the November ballot, motivated by San Francisco's brazen move to sanction 4,000 gay weddings and the ruling by the Massachusetts Supreme Judicial Court to legalize gay marriage in that state. The San Francisco unions eventually were nullified.

"I think the ballot box is being used because people opposed to gay marriage think they can prevail," Lazarus said. "They have a much more difficult time winning in court."

In the confines of their chambers, judges must find legal precedent for their often subjective decisions, and when it comes to gay marriage, previous precedents are being challenged like never before.

Gays and lesbians have only recently begun forcing the issue in court, experimenting with lawsuits that were rarely broached in past decades when state courts still outlawed mixed-raced marriages and allowed schools to fire homosexual teachers.

And while opponents of same-sex marriage argue for the historical virtues of marriage, gays and lesbians say it's time for a historical shift of marriage laws.

Meanwhile, precedent from the U.S. Supreme Court is not definitive.

One of the closest times the Supreme Court has come to ruling on whether same-sex marriages were permitted was when it declined, without comment, to hear a 1971 decision that found gays and lesbians had neither a state nor federal constitutional right to marry. The Minnesota Supreme Court had declared that marriage between a man and woman involves "the procreation and rearing of children within a family" and "is as old as the book of Genesis."

Still, the justices have not been silent about marriage and procreation. In striking down an Oklahoma law requiring certain criminals be sterilized in 1942, the justices ruled that "marriage and procreation are fundamental to the very existence of survival of the race."

Scholars disagree about what guidance, if any, these and other Supreme Court decisions should provide to judges today, particularly as lower courts take a fresh look at how gay marriage fits into their state constitutions.

The Massachusetts high court, for example, rejected the procreation argument as a rational basis for preventing gays and lesbians from marrying, saying it is "the permanent commitment of the marriage partners to one another, not the begetting of children, that is the sine qua non of marriage."

Douglas Kmiec, a constitutional scholar at Pepperdine University School of Law, believes the same-sex lawsuits are opening the door to judicial activism, whereby judges are disregarding high court precedent as well as the historical and moral value of marriage. He cites the 2003 Massachusetts ruling as a clear example.

"To decide the traditional marriage has no rational basis in the history of the world is to make a fantastic statement of activist proportions," Kmiec said. "It bore no relationship to Massachusetts law and paid no interest to the definition of marriage."

To avoid the political fray, some judges are taking the middle road.

In November, Merced County Superior Court Judge Linda Feinberg of New Jersey said the lawfulness of same-sex marriage was not for the courts to decide.

"Impatience with the scope or pace of change," she wrote, "is an insufficient basis upon which to justify the judicial creation of a new constitutional right."

NATIONAL



Billionaire Anschutz trying his hand at the movies

BY SANDY SHORE
AP Business Writer

DENVER — For 13 years, Taylor Hackford was told a movie about the life of Ray Charles would be a miserable failure. Then he met Phil Anschutz.

The Denver billionaire, whose love of Charles' music dates to the first concert he ever attended, told the Hollywood director he believed in the project. And that he would pay for it.

"There's a lot of rich people who pretend like they're going to finance movies and they will get involved if someone has backed them up," Hackford recalled. "But to go in blind without a distributor and finance a movie that cost \$35 million, that was pretty astounding."

The movie, "Ray," has been nominated for six Oscars, including best picture, best actor and best director, heading into Sunday's Academy Awards ceremony. Jamie Foxx already has won a Golden Globe and a Screen Actors Guild Award for best actor.

Now 65, Anschutz is a wildcatter from Kansas who built an empire over four decades by relying on an instinct for finding underdeveloped areas and turning them into successes, whether it be oil wells, railroads, sports teams, newspapers and theaters.

Been in a Regal theater? That's Anschutz. The NHL's Los Angeles Kings are his team. He's a major stakeholder in the Union Pacific Railroad.

Now Anschutz is dabbling in movies.

"If you measure success by the fact that his films have added something immeasurable to the legacy of cinema, the answer is a resounding no," said Peter Guber, chairman of Mandalay Entertainment Group, who first met Anschutz when he was negotiating to purchase the Kings. "If you ask whether or not he's been successful as an entrepreneur in the entertainment business, it is a resounding yes."

The Anschutz Film Group is the umbrella for two film companies formed by Anschutz to produce family-friendly fare, a niche where he believes he can find a home. Bristol Bay Productions, created last year from Crusader Entertainment, was behind "Ray" and the upcoming "Sahara," based on a book by Clive Cussler.

And Walden Media works with teachers and librarians to identify books that can be turned into movies. Its films include "Around the World in 80 Days" (which did \$24 million at the U.S. box office and has generated at least \$48 million in foreign sales), "Because of Winn Dixie" and the critically acclaimed "Holes."

Walden also is working with Walt Disney Studios on "The Chronicles of Narnia: The Lion, the Witch and the Wardrobe," set for December release. It is the first

installment from the popular children's fantasy book series by C.S. Lewis.

Anschutz is a devout Presbyterian, but associates say he doesn't try to influence projects with his beliefs.

Hackford said he and Anschutz disagreed only about the movie rating for "Ray," with Anschutz insisting on PG-13 instead of R despite details of Charles' drug addiction and womanizing. Once Hackford agreed, Anschutz left him alone to make the film.

"He's a conservative Republican and he knows I'm a liberal Democrat," Hackford said. "That didn't mean we couldn't talk about business."

Still, Anschutz has ruffled some feathers along the way.

Nelson Phelps, past president of the Association of US West Retirees, called Anschutz arrogant and said he believes the businessman cares little for workers. Phelps, who retired from US West in 1990, before Anschutz's Qwest Communications International Inc. took over the Baby Bell, said he has never met Anschutz or talked with him, but believes his opinion mirrors that of thousands of retirees whom he actively represented for many years.

"We believe he did not really look or oversee or fulfill his obligation when it came to our pension fund, our health care trust fund," Phelps said.

Born in 1939, Anschutz grew up in Kansas where his father was an oil wildcatter who bounced through boom and bust cycles. He graduated from the University of Kansas in 1961 with a degree in economics and finance and joined his father's struggling business.

In 1965, Anschutz struck out on his own by forming Anschutz Corp. for oil exploration. His first foray into Hollywood came a few years later in a strange way:

A Wyoming well had blown out, a situation that could have forced him into bankruptcy, Anschutz recalled in a 1974 oral history provided to the Colorado Historical Society.

He contacted renowned oil firefighter Red Adair and raised the money to pay him by selling the movie rights to a Hollywood studio that filmed the fire for a John Wayne film about Adair's life called "Hellfighters."

"There's always a point that if you go forward you win, sometimes you win it all, and if you go back you lose everything, and that was that point for me," Anschutz said in the history. He has not granted a public interview for 30 years, and didn't want to be interviewed for this story.

In the 1980s, Anschutz expanded into railroads, buying the Denver & Rio Grande and the Southern Pacific Corp. which then merged with Union Pacific Corp. in a \$5.4 billion deal that created the nation's biggest railroad. Today, he owns about 1.2 percent of Union Pacific

stock and remains a director.

Anschutz held onto Southern Pacific's telecommunications division, which owned rights of way along the railroad tracks, setting the stage for his next venture — Qwest, which built a nationwide fiber-optic network and became a major telecoms player with its multibillion-dollar acquisition of US West Inc.

In the 1990s Anschutz expanded his portfolio to include sports teams: hockey's Kings, part-ownership of the NBA's Los Angeles Lakers, five Major League Soccer teams and a handful of hockey and soccer teams in Europe.

MLS Commissioner Don Garber credits Anschutz with getting the organization off the ground by seeing an opportunity in the convergence of suburban soccer and the game's fast-growing ethnic fan base, primarily among Hispanics, the fastest-growing demographic in the United States.

His interests also include Regal Entertainment Group, the nation's largest movie theater chain, and a recent foray into publishing with the San Francisco Examiner, two Bay Area independent newspapers and the Washington Examiner.

Executives say he not only invests his money but surrounds himself with talent — "intellectual capital," as Guber puts it.

Of late, the venture that has drawn the most attention is Anschutz's dedication to making movies without sex or violence.

"Phil is in this for two reasons," said David Weil, an entertainment attorney who now heads the Anschutz Film Group. "One, because he believes in the commerce of it. This is an underserved market and his business proposition, I think, as a whole has demonstrated there's a real market that's not being tapped into for the kinds of books that have become films that are inherently educational."

Leonard Maltin, a film critic with "Entertainment Tonight," said Anschutz has become an industry player because of his deep pockets. He also noted that G-rated movies attract a broad demographic.

"It's a smart way to go and it also does some form of public service," he said.

Hackford recalls shopping around the idea for "Ray" for years and being told that younger audiences wouldn't be interested in Ray Charles, that black-oriented films don't typically sell well overseas, that it was a difficult story to tell because Charles was a heroin addict and serial adulterer.

Anschutz, however, believed a Charles movie would offer inspiration.

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LOCAL

Police excessive force trial set to begin March 8

SHOW OF FORCE, from page 1

Judge Collins apparently reversed course after accepting written arguments from attorneys for Jeremy Naidoo, who was struck five times with police-issued nunchaku, a martial arts weapon, after he fled from his car during a traffic stop in Ocean Park.

"The high probative value of the enhanced versions outweighs any possible prejudice to defendants," Judge Collins wrote in her Feb. 22 decision. "Moreover, the alterations in presentation that the plaintiffs seek do not change the contents of the recording ...

"The court is mindful, however, that visual images can leave deep impressions," Judge Collins continued. "The jury will first view the recording in real time with no brightening or slowing effects, and any enhanced versions will be clearly delineated as such."

A jury trial in the case is scheduled for March 8.

Judge Collins' decision to allow the video enhancements dealt a blow to attorneys at City Hall, who have sought to keep the video out of trial on the grounds that it doesn't depict the events preceding the May 31, 2002 beating.

Deputy City Attorney Carol Rohr didn't return calls seeking comment. In earlier interviews and court testi-

mony, she has maintained the officers were reasonable in their use of force, saying Naidoo failed to cooperate with police, acted nervously and bolted from his car before finally being tackled by two officers.

The amateur video was captured by an eyewitness from an upper-level balcony. It shows SMPD Officer Salvador Lucio, a backup officer just arriving on the scene, repeatedly strike Naidoo on the head and shoulders. SMPD Officer Robert Lanam is seen kneeling on Naidoo's back, pinning his right arm back, while SMPD Officer Michael Bambrick stands above Naidoo.

Lucio hits Naidoo four times rapidly before Bambrick and Lanam appear to restrain Naidoo's left arm. Seven to eight seconds later, Lucio delivers a fifth blow.

In excessive force cases, what jurors must decide is whether officers used "objective reasonableness" when considering the "totality of the situation," according to Judge Collins and attorneys on both sides of the civil lawsuit.

Naidoo, 30, claimed the video proves the officers used excessive force because they continued to strike him even after he was restrained. In the footage, Naidoo is heard screaming, "Don't hit me! Please don't hit me!" Lucio is heard yelling, "Get your arm back! Get your arm back!"

The nunchaku Lucio used to hit Naidoo was made from two pieces of heavy, polyurethane plastic, connect-

ed by a short string of braided nylon, according to Police Chief James T. Butts, Jr., who has declined to discuss the case at the advice of City Attorney Marsha Moutrie.

Moutrie has discussed the case only to say excessive force cases are very rare in Santa Monica.

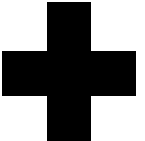
Naidoo didn't suffer any debilitating injuries from the strikes, though his lawyers said he was treated for welts and abrasions to his head and shoulders. They also claimed attorneys at City Hall had not made any offers to settle the case, but declined to name a suitable amount.

Two key witnesses are expected to testify against the SMPD at trial. One is Evan Brown, who began shooting the video footage after hearing one officer say, "Yeah, f*ck him up," according to Naidoo's lawyers. Another is eyewitness Daniel Weitzel, who called 911 after the incident and insisted on lodging a formal complaint against the three SMPD officers, a transcript of the call shows.

The son of longtime Palisades Bakery owners Sylvia and Vassie Naidoo, Jeremy Naidoo originally faced a third-strike conviction in the criminal courts and 25 years to life behind bars on seven felony charges. After the video surfaced, prosecutors agreed to let Naidoo plead guilty to one misdemeanor charge that would be wiped away after he completed a drug diversion course, lawyers said.

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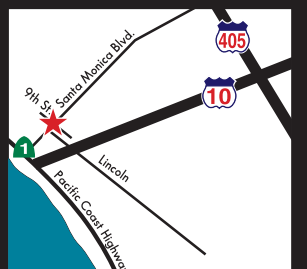


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Homeless top the list of merchant concerns

KA-CHING, from page 1

ed on the south end of the Promenade, has seen declining sales numbers in recent years.

While the majority of merchants polled said holiday sales were higher this year, the persistence of rain and homelessness were viewed by some to have had a negative impact on business. Other negative factors reported were the lack of public restrooms, no signage for Second and Fourth street stores, and street performers playing too loud.

The top three issues merchants said they would like Bayside to help address for the good of their businesses included homelessness, parking and street enhancements.

Jeff Decker, who is opening a new wine bar on the Promenade called the Vin Yard, said he is concerned about homelessness in downtown Santa Monica.

"I have some concerns about homelessness and how it relates to the image of my business," he said at the Bayside board's Thursday meeting. "Nighttime business owners have different concerns than daytime business owners.

"As we all know, Santa Monica becomes a different place when the sun goes down."

Six of the survey's respondents (or 22 percent) said homelessness was the No. 1 issue facing the Promenade, followed by parking for employees and customers, and street enhancements.

Bayside board member Patricia Hoffman said the survey showed that only a small number of merchants polled believed homelessness was the most serious problem affecting their business, continuing a debate about the issue which has been stirring within the district for years.

"What it (the survey) shows is that most business owners do not believe homelessness is the problem," she said.

Board members said the survey was done on such a small scale that the results could not be taken too seriously. Some board members said a City Hall survey conducted of Santa Monica residents in January may be a better reflection of what the community thinks.

In that survey, conducted by Goodwin Simon Strategic Research, 45 percent of 400 residents polled over the telephone named homelessness as the city's top issue, as opposed to just 33 percent in 2002. Homelessness has been residents' No. 1 concern for at least five years, according to City Hall surveys.

A quarter of the residents polled named clogged roadways one of the two most important issues facing Santa Monica. That number was up over 18 percent in 2002.

The lack of parking remained a top concern, with 16 percent of residents listing it as one of the top two issues this year, or double the number of residents who said the same when the poll was conducted three years ago.

Also listed by residents as critical issues facing Santa Monica were excessive growth and overcrowding, which together accounted for 16 percent of votes for the most important issue; education, at 12 percent; lack of affordable housing; and crime, gangs and drugs, according to the survey results.

The survey covered each major neighborhood in Santa Monica, with 24 percent of those polled living in the Mid-City area, 25 percent in Ocean Park or Sunset Park, 12 percent north of Montana Avenue, 30 percent in the Wilshire-Montana area and 7 percent living downtown.

In order to determine the issues most important to Santa Monica residents, pollsters asked what residents' top concerns were, but didn't offer multiple choice answers.

City Hall paid Goodwin Simon Strategic Research \$28,700 to conduct the survey. The cost of the survey also covered polling an extra 150 residents in the Pico neighborhood. Officials hope to use the results from those interviews in a forum on gang violence, to be held today from 9:30 a.m. to 1 p.m. at John Adams Middle School, 2425 16th St.

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SIGNING OUT: Saint John's staff adorned a wall in the health care center's former main wing with their sentiments.

Phase two at St. John's to begin in 2010

SAINT JOHN'S, from page 1

struction.

"The hard demolition will be in five weeks," he said.

Saint John's plans to spend \$314 million on its improved facilities. The project is funded completely separate from the hospital's operating budget and comes from FEMA money and a capital fundraising campaign, Muldoon said.

The Howard Keck Diagnostic Treatment Center will begin construction in June and will serve the technical business of health care, Muldoon said.

Rebuilding hospital facilities is done in phases and will require hundreds of individual moves upon completion. Phase one of the project, which includes construction of the diagnostic center, is expected to be complete in January of 2009.

Muldoon said the second phase of the project, still in the planning phase, has not yet been submitted to the Santa Monica City Council.

"We hope to start the second phase in 2010, and be done in 2015," he said. "It will involve the development of property adjacent to the hospital, which we hope to use for medically-related services, such as an assisted living building, professional offices, and a wellness center."

The north pavillion is completely base isolated, which allows the building to be able to withstand massive force — much more than the Northridge Earthquake. Saint John's was closed for nine months after the 1994 earthquake and as a result, hospital officials have taken extra precautions to

ensure it's self-sufficient in case another quake hits.

During the first few days after the quake, Saint John's didn't have water for domestic use.

"We were out of business for nine months, we learned a lot," Muldoon said. "You have to have your own infrastructure."

There are 175,000 gallons of water stored underneath the north pavillion building, as well as 185,000 gallons of sanitary sewer water, 40,000 gallons of fuel and a third of the hospital's power is generated on site.

"If there was any type of event, we are now self-sufficient," Muldoon said.

Muldoon said the ongoing project will continue to produce some noise and traffic impacts.

"There is always some impact with a project like this," Muldoon said. "To take down main wing, for example, we'll have to bring in trucks to haul off the rubble. But we have worked hard to keep the surrounding community up to speed.

"Also, Santa Monica has guidelines we must follow to make sure we minimize the impact," he added.

Construction work will take place between 8 a.m. and 6 p.m. on weekdays and between 9 a.m. and 5 p.m. on weekends. There will be no construction traffic or noise on Sundays.

Saint John's also will be planting street trees on 23rd Street along the north pavillion's side, to help beautify the surrounding area.

Call the construction hotline at (310) 264-1013 with questions related to the project.



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U.S. farm-state senators have a beef with Japan

BY SAM HANANEL

Associated Press Writer

WASHINGTON — Twenty senators from farm states have written to Japan's ambassador in the United States, urging his country to follow up on its promise to lift an import ban on American beef.

The letter, sent Wednesday, also raised the possibility of a trade battle if Japan does not live up to its October agreement to end the ban.

"If the Japanese government fails to lift the ban expeditiously, we are afraid that the U.S. Congress may pursue equitable, retaliatory economic actions against Japan," stated the letter to Ambassador Ryozyo Kato.

Japan is also under pressure from Secretary of State Condoleezza Rice, who raised the issue Saturday at meetings in Washington with Japanese counterpart Nobutaka Machimura. State Department officials have said Japan understands U.S. concerns and has made a commitment to resolve the issue.

The ban was imposed in December 2003 after the United States discovered its first case of fatal brain-wasting mad cow disease, known as bovine spongiform encephalopathy, in a Washington state Holstein.

Before the ban, Japan was the most lucrative overseas market for U.S. beef producers, buying \$1.7 billion in beef in 2003.

Earlier this month, a Japanese government panel took a step toward partially lifting the ban, but the decision still has to be approved by the government. The panel recommended that Japan begin importing U.S. grade A40 beef, which comes primarily from cattle 12 to 17 months old.

Although the panel's decision was welcomed by the U.S. government as an important step toward resuming trade, Japanese consumer organizations criticized the move, saying it was politically motivated.

The letter was signed by senators from Colorado, Georgia, Idaho, Kansas, Kentucky, Missouri, Ohio, Oklahoma, Oregon, Montana, Nebraska, New Mexico, South Dakota and Texas.

"Our government has acted in good faith with Japanese officials to implement appropriate safeguards using internationally recognized science," the senators wrote. "Regrettably, these attempts have been rejected repeatedly by some in your government who are intent on stopping any resolution of this issue by using unrealistic requirements and dubious science."

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NATIONAL



Buffalo nickels coming back — by the millions

BY MARTIN CRUTSINGER

AP Economics Writer

WASHINGTON — Stampede! Millions of American buffalo are headed to cash registers near you.

Sixty-seven years after the government minted its last buffalo nickel, the symbol of the American West is returning to the 5-cent piece.

The United States Mint has shipped 97 million of the new coins to the Federal Reserve's 12 regional banks, and they will start distributing the coins to local banks on Monday. The nickels should start showing up in stores' change drawers within a couple of weeks.

For those who can't wait that long, the Mint has planned an elaborate launch ceremony in Washington on Tuesday complete with a live bison, tribal dances and American Indian speakers. People will be able to show up at Union Station and buy \$2 rolls of the shiny new 5-cent pieces.

The coins will also be on sale at the Mint's Web site starting on Monday.

Riding an unprecedented wave of popularity in coin collecting, the Mint is hoping its series of new nickels will rival the 50-state quarter series that it launched in 1999. Five new quarters are minted each year to honor the states in the order they were admitted to the union.

The quarters, which many people are collecting in map books, have spurred an estimated 140 million Americans to col-

lect coins — equal to one person in every household.

"The 50 state quarters are the most popular program in American history for coin collectors and the nickels will probably be our second most popular coin collecting series," Mint Director Henrietta Holsman Fore said in an interview.

The Westward Journey Nickel Series is commemorating the 200th anniversary of the Louisiana Purchase and the Lewis and Clark expedition, both of which occurred during the administration of the country's third president, Thomas Jefferson.

The first two nickels were introduced last year. One featured two hands clasping, a replica of the friendship medallion that Lewis and Clark handed out to Indian tribes along the way.

The second had a depiction of the keelboat that the two used to journey up the Missouri River in 1804.

The series represents the first change in the nickel since 1938, when the Mint switched from the buffalo nickel with an American Indian on the opposite side to the Jefferson nickel that had a picture of Jefferson on one side and Monticello, Jefferson's home, on the other.

While the traditional portrait of Jefferson appeared on the two new nickels introduced last year, the new bison nickel has replaced the old version of Jefferson with a view that shows him in bolder profile and also features the word "Liberty" in Jefferson's handwriting.



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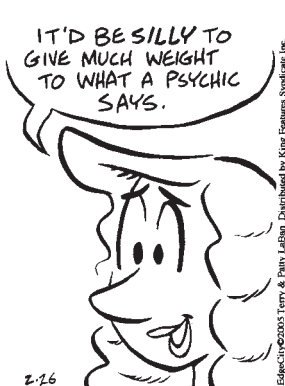
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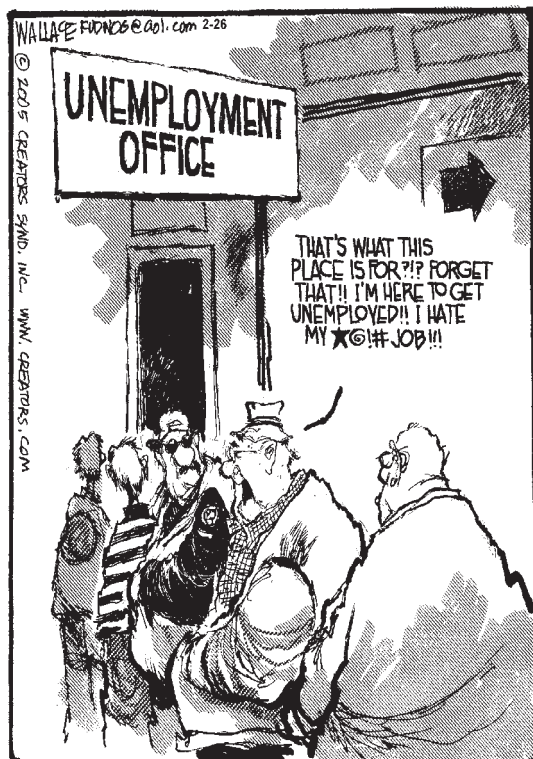
SOMEDAY IT WILL WARM UP



...AND WE THOUGHT
OUR JOB WAS HARD...

P. R.
DEPT.

COVERLY
8-26



By THOMAS JOSEPH

DOWN

- 1 Begat
6 Stockpile
11 Madrid museum
12 Prickly plants
13 Fab drummer
14 Laud
15 Fall bloomers
17 Sitcom planet
18 Lilliputian
19 Debate stands
22 Acid
23 Perches
24 Unimportant
25 Coot
27 Antique
30 Bank staff
31 Ingot
32 McKellen of film
33 Florida city, for short
35 Burger accompaniment
38 Joined the crew
39 Mushrooms
40 Plug part
41 It may be in the soup
42 Detect

- 1 Spread out
- 2 Fancy flowers
- 3 Har-angued
- 4 Advan-tage
- 5 Party award
- 6 Deck one
- 7 Upper limit
- 8 Mis-behave
- 9 Forecast warnings
- 10 Jockey attire
- 16 Tulsa natives

G	A	L	A	S		A	S	K	E	D
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Yesterday's answer

- | | |
|--|---------------------------------------|
| 20 Rubber
wedges | 27 King of
the fairies |
| 21 Leb.
neighbor | 28 Draws
toward
midnight |
| 24 Danny's
"Lethal
Weapon"
co-star | 29 Search
the bottom |
| 25 Prepare | 30 Spats |
| 26 Ocean
current | 34 Strip |
| | 36 Big head |
| | 37 No-no |

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11						12				
13						14				
15						16			17	
18				19		20	21			
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35			36	37		38				
39						40				
41						42				

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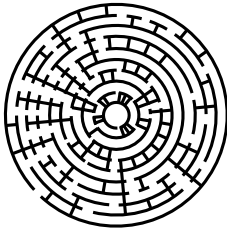
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