

Palo Alto Rotary Pinion

Weekly Newsletter

Date: March 25, 2013

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Editor: DICK MANSFIELD



Dr. Robert C. (Bob) Smithwick
December 21, 1920 – March 22, 2013

“No one teaches us about dying, but Sam and Bob sure showed us how to live.” –Dick Freeman

CALL TO ORDER

President HAL MICKELSON opened the meeting at 12:42 and led the Pledge of Allegiance. President Hal then asked for a moment of silence in memory of BOB SMITHWICK who passed away over the weekend. Bob, 92 years old, was a long-time Palo Alto Rotary Club member, a former President of the Sunnyvale Rotary Club, and a founder of what is now the Foothill–De Anza Community College District. A memorial service will be held in the next couple of weeks.

President HAL welcomed Visiting Rotarian SKIP HOYT, a former member of our Club and now a member of the



BILL BETHKE AND SKIP HOYT

Rossmoor Rotary Club. Guests of Rotarians: LE LEVY’s guest, Peter Hart; JULIE JEROME’s guests, Nancy Bjork and Leika Kejriwal; and DIANA DIAMOND’s guest, Seth Schalet. MEL MATSUMOTO arrived as a guest but left as a member: See below.

OPENING REMARKS

ANDREW PIERCE was inspired by a recent trip to Cuba along with classmates from the University of Santa Clara Law School. He noted that there was a very small Cuban commercial economic sector and a much larger non-profit

sector. As an example there is a club for baseball fans, and another one for architects. One of the baseball club members noted that they can talk all they want about baseball, because they cannot talk about politics. In contrast Andrew pointed out that one of the key characteristics of Rotary is its independence. In the Rotary goal of service, Rotary is independent of government and any corporation.



AUCTION

President HAL conducted an auction of a basket of coffees – winner was SALLY TOMLINSON – and three pairs of Giants tickets – winners were CHESLEY DOUGLAS, STEVE EMSLIE and JOHN KIDD.

NEW MEMBER

President HAL inducted MEL MATSUMOTO, Executive Director of Channing House, whose sponsor was MIKE COUCH.



HAL MICKELSON, MEL MATSUMOTO, MIKE COUCH

PRESIDENT’S CLUB CONTRIBUTION

JOHN BARTON announced that his oldest son is now engaged.

PROGRAM

GLORIA HOM introduced our Guest Speaker, Professor Gerald Uelmen, a former Dean and now a Professor at the University of Santa Clara Law School. Professor Uelmen is a graduate of the Georgetown University Law Center, and is a former attorney with the US Attorney’s Office in Los Angeles. He defended both Daniel Ellsberg and O. J. Simpson. He has been a law school professor for 43 years. He began his talk with a poem he has written about peeking inside the conscience of an attorney:

Black may be gray,
White may be gray.
When things are gray they can go either way.
Painting things gray can pay.

Is a trial a search for the truth? Both sides have their own versions of the truth. Does the jury's verdict establish the truth? The end point of a trial is a search for an acceptable level of certainty among competing versions of the truth. The same events can produce two versions of the truth. Certainty can be expressed as a percentage; truth is an absolute (a binary concept).



There are different levels of certainty in a criminal trial and in a civil trial. In a criminal trial a person's liberty is at stake; in a civil trial it is only a question of money. Because of the power of the state, the criminal system has been set up to try and balance the

power of the state. The state has the burden to overcome the presumption of innocence of the defendant. The founders distrusted the power of the state. The Bill of Rights was established to limit the powers of the state. In a civil trial, the decision is based on a preponderance of the evidence.

How can you defend someone you know is guilty? The defense attorney is not required to judge the defendant. He or she is only required to zealously defend the view of the defendant, and challenge the prosecutor's view. The personal belief of the defense attorney is irrelevant.

Professor Uelmen defined two ethical constraints on both prosecution and defense.

Neither can suborn perjured testimony, and neither side can hide or suppress evidence. Suppression of evidence by the prosecution is a violation of due process. Defense attorneys are not required to disclose unfavorable evidence, although they cannot hide or suppress evidence.



Our system depends on the vigorous advocacy of both sides. One of its weaknesses, however, is that it limits a vigorous defense of indigent defendants. He described the Innocence Project, which is a non-profit legal organization that is committed to exonerating wrongly convicted people through the use of DNA testing, and to reforming the criminal justice system to prevent future injustice. There have been 16 exonerations in Santa Clara's Innocence Project, one of 20 such projects in the United States. About 300 individuals have been exonerated nationwide since 1989, about 62% of whom are African-Americans.

Professor Uelmen concluded that a trial is a search for a requisite degree of certainty, not a search for truth. We may be wrong. Human beings are fallible. Most cases are not resolved at trial; 97% of felony cases in California are settled by plea bargain.

UPCOMING PROGRAMS

- April 1 **Pat Dwyer**, "It Doesn't Take a Genius: The Need for Collaboration between our Justice and Mental Health Systems"
- April 8 **Melissa Chan**, Knight Fellow, on reporting on China for Al Jazeera
- April 15 Palo Alto Mayor **Greg Scharff**, "The State of the City"
- April 22 **Russ Hancock**, President/CEO Joint Venture Silicon Valley
- April 29 **Emma Seppala**, Associate Director, Stanford Center For Compassion, Altruism and Education, "Compassion and Service"

Dear Rotarians: As you are reading this ePinion, would you consider becoming one of those who write it? We take turns. When there are more writers, it is only your turn every two months or so. This service to your club is needed now. Our Pinion Editor, **LYLE CONNELL**, is needed at home right now, so please email **GINNY LEAR**, vklear@los-altos.org, or any of the scribes for further information: **BILL BUSSE, BRIAN STEEN, GEOFF ZIMAN, DON MORGAN**. Thank you.