
“LAW AND . . .”^{*} IN THEORY AND PRACTICE: THE USC STYLE AND ITS INFLUENCE

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I “got into” what became the University of Southern California Law School style of scholarship very innocently and without the intention of participating in a movement. As a law student, I became interested in airline regulation from a public policy (normative) perspective. I had noticed very low fares in California, making air travel available to a broad segment of the public, and wondered why fares that low couldn’t be offered elsewhere in the United States. As it turned out, I learned that an exception in federal law meant that intrastate service in California was regulated under a different and freer regime than that which governed interstate air transportation. I wondered whether a freer regime nationwide would produce better results for the public than existing federal regulation.

I soon realized that in order to say anything normative about airline regulation, you had to be able to explicate the positive causal connections between alternative institutions and actual or predicted outcomes. In order to do that, you had to have some sense of which body of analytic understanding (in this case, the economics of industrial organization) was most appropriate to explore and explain the causal connection. Once you knew *that*, you could begin to learn the appropriate body of knowledge and you would find out pretty quickly (in my case, by simultaneously taking courses in industrial organization economics in Yale’s liberally oriented

^{*} The term “Law and . . .” is widely used at the University of Southern California Law School to describe the style of scholarship most characteristic of the institution. One of its most eminent practitioners, Robert C. Ellickson, used the phrase evocatively in print in *The Market for “Law-and” Scholarship*, 21 HARV. J.L. & PUB. POL’Y 157 (1997).

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Graduate School department and courses in antitrust law from economists at the University of Chicago Law School) that there were many differences of opinion both about how to characterize causal connections and about how theory would manifest itself in practice. This meant that one couldn't simply take some piece of received wisdom for granted and deduce conclusions and recommendations from it. I finally understood that I probably would have to take a close look at the actual workings of the phenomenon in which I was interested in order to make a judgment about which competing speculation or prediction probably was right.

This line of inquiry produced a study comparing airline prices and service in California with those in comparable markets regulated by the United States Civil Aeronautics Board and exploring the reasons for the differences.¹ My study concluded that federal control of entry and rates produced higher prices and consequently a smaller market for airline services than would prevail in a less-regulated market. Armed with this information, I went out into the world (actually, to the Civil Aeronautics Board), certain that those in charge of managing and maintaining this public policy mistake were just waiting for the corrections and improvements that could be achieved by applying the prescriptions of a really bright person who had studied the matter closely.

It became clear nearly instantly that I had misjudged the situation, and that those in charge of the system, along with those regulated by it, were in no hurry to acknowledge the errors of their ways, let alone to correct them. Being young and resilient, I went on to something easier (ending poverty!), concluding that there was a lot that I didn't understand about what made institutions work as they did. I also thought that perhaps the problem was that I had not gained a subtle enough understanding of economics. When I decided to become a scholar, I first thought of getting a Ph.D. in economics. Instead I took some good advice offered by an economist (George Sorter, then Associate Dean at the University of Chicago School of Business) and decided on a more "custom-tailored" year of study as a research fellow under Ronald H. Coase (later to win the Nobel Prize in Economics) at the University of Chicago Law School.

The next generation of interdisciplinary legal scholars would find it more important to acquire professional credentials in their other discipline. But for the generation just beginning to follow in the footsteps of a very

1. Michael E. Levine, Note, *Is Regulation Necessary? California Air Transportation and National Regulatory Policy*, 74 YALE L.J. 1416 (1965), reprinted in LAWRENCE M. FRIEDMAN & STEWART MACAULAY, *LAW AND THE BEHAVIORAL SCIENCES* 340 (1969).

few interdisciplinary pioneers, focused study of a related discipline was a more than sufficient "license" to do interdisciplinary study. In the country of the blind, it has been said, the one-eyed person is king. As we shall see shortly, among the intellectually blind, the one-eyed person is also suspect and a fully sighted person would probably have been beyond trust!

While at Chicago, I once again identified a public policy problem (airport congestion), which, once studied, seemed to be crying out for institutional change. I studied the relevant economics under Coase's direction, learned a great deal about the institutional history and character of the problems, and went about prescribing reform. In this case I proposed completely reforming airport financing to abandon "single-till-residual" mechanisms, which involved extracting monopoly rents from all airport users but aircraft, and then recovering the rest from aircraft users through average-cost prices that encouraged overuse at peak times. I also proposed eliminating the administrative rationing of landing slots to deal with the congestion produced by this system. The proposed substitute was variable landing fees for both.² Once again, the stunning clarity of my logic did not get a cooperative response from the responsible institutions, and I wondered why.

At the same time, I followed through on my intention to continue to pursue inquiries of this kind as an academic, having seen that analyzing public policy in Washington was highly constrained by politics that affected both diagnoses and proposed cures. But when my law school mentors and I tried to secure a teaching position for me at a "respectable" school, it became clear that neither of the two published articles I offered as evidence of my abilities and interests were regarded as "real law" work by the academic legal establishment of the time. They were seen as "economics," and suspect for that reason. In fact, only two schools, USC and Wisconsin, were willing to invite me to an on-campus interview. And Wisconsin soon decided, in a (reportedly) fairly heated faculty discussion, that my work wasn't "legal" enough to justify an offer of appointment, notwithstanding the fact that each article focused on provisions of statutory law or interpretation and prescribed changes in the institutions they embodied.

At USC, things were different. By 1967, attrition had reduced the number of tradition-minded senior faculty, and the appointments process had come under the control of a diverse group of younger and more senior

2. Michael E. Levine, *Landing Fees and the Airport Congestion Problem*, 12 J.L. & ECON. 79 (1969), reprinted in READINGS IN CONTEMPORARY ECONOMICS 81 (Leonard S. Silk ed., 1970).

faculty united in the view that law was about ordering social processes. The more that you knew about the way social processes worked and the ways you could talk about them, the better job you could do in understanding and prescribing law. The understanding could be theoretical or practical, philosophical or economic, but it should not be merely doctrinal, no matter how learned in doctrine you were. The younger faculty included William Bishin, George Lefcoe, Martin Levine, Christopher Stone, and (by 1967) David Slawson. The more senior group of faculty with these convictions included Frank Jones, Donald Knutson, Dorothy Nelson, and Leonard Ratner. Other faculty like former dean Orrin Evans were less committed to the concept but interested in seeing the school move forward, prosper and grow, and by then were willing to stand aside and let these young and older Turks pursue their vision.

USC was the only place I had encountered in my job search where I didn't have to defend what I was doing as "sufficiently legal." The USC faculty took for granted the notion that if you wanted to know what the law should be regarding air transport or airport financing (or how the law got the way it was) you would naturally want to understand the economics and politics of those matters. In the same way, if you wanted to understand criminal law or the law regarding the mentally ill, you needed to understand psychology and to know what sociology could teach you. If you wanted to know how law was influenced by the concepts embedded in the use of language, then your interest in philosophy would be natural. The USC faculty just wanted to know whether your work was good and most particularly whether you could explain and defend the conclusions you had drawn using other disciplines.

This was exhilarating and liberating, and I was powerfully drawn to it. In the next several years, the USC appointments committee (which I chaired for a time despite my very junior status) would hire a variety of new faculty with strong interests in other disciplines—Robert Ellickson (economics and, later in his career, sociology and history), Michael Graetz (economics and public finance), Michael Moore (philosophy), Stephen Morse (psychology), Alan Schwartz (economics), and Michael Shapiro (neurophysiology and biotechnology), to name only a few. Richard Epstein, who joined the faculty the same year I did, had a strong interest in the impact of philosophy and legal history on common law. Ellickson, like me, had had difficulty interesting other law faculties in his style of analysis.

Interestingly, the openness of this faculty to ideas from other disciplines was nonexclusive, in two senses. First, a faculty member's work in an outside discipline made her sensitive to the fact that other

disciplines could provide other contributions to other people's work. It didn't matter so much whether the other discipline was biology, economics, philosophy, psychology, or sociology, as long as the discipline was used rigorously and relevantly to illuminate some aspect of law. Second, once a faculty member's mind was opened to the contribution that one discipline could make to her work, she was likely to be open to the proposition that some other discipline might contribute to her area of work as well.

Both of these characteristics contributed to the extraordinary success of an early program that became one of the most unusual interdisciplinary projects in legal education—the USC/Caltech program. The history of the program illustrates what has been special about the USC approach to legal scholarship. In 1972, while visiting at Duke, Dorothy Nelson approached me and asked whether I would be interested in being considered for an endowed chair at the California Institute of Technology, the Henry R. Luce Professorship of Law and Social Change in the Technological Society. Funding had been secured for this grandly named position by the Caltech Division of Humanities and Social Sciences, an interdisciplinary group focused around economics, political science, and history. It had proven difficult to recruit a legal scholar of ability to this position because candidates feared being cut off from their roots and colleagues in legal scholarship with no "right of retreat" if the enterprise failed.

After asking me if I was interested, Dean Dorothy Nelson proposed to Caltech that a joint appointment be created. In an arrangement that evidenced USC's commitment to interdisciplinary studies, I would be allowed to keep my tenured position at USC (thus removing the principal academic risk from the candidate's point of view) and would spend two quarters at Caltech and one semester at USC each year. Caltech had a group that mirrored the USC faculty of the time. It combined intelligent and forward-thinking interdisciplinary senior "misfits," faculty whose interests at the boundaries of economics, politics, and history had moved them out of the mainstream of their professions, and exceptionally promising young scholars who wanted to work at the disciplinary boundaries and wanted to be in an environment where that would be accepted and rewarded. The group included Charles Plott, David Grether, Lance Davis, and Jim Quirk among the senior economists. They had attracted Roger Noll, an economist with interests in regulation that paralleled mine. These interests had driven him into an interest in political science as a way of understanding the political constraints and influences which seemed to go beyond economics in explaining regulatory outcomes. He was joined by John Ferejohn and Morris Fiorina, young political

scientists who, influenced by Anthony Downs, William Riker, and others, wanted to use the rational-actor analytic methods of economics to understand politics.

The Caltech group profoundly influenced and greatly broadened my notion of what interdisciplinary work entailed. They gave me a perspective and analytical tools with which to address the obstacles that prevented adoption of regulatory policies that would produce efficiency gains. In the course of the first two years, I started collaborative work with Plott using social choice theory and began to develop a conviction that this body of work could greatly enrich the understanding of my USC colleagues. Over the next decade and a half, the work I did at Caltech both with Plott and on my own developed an interest in how political groups reach decisions³ and how those processes influence regulation to the microeconomic focus that continued to be important in understanding its effects. The Caltech experience helped develop the notion that many legal problems required the tools of more than one discipline to be understood. It helped explain the seeming paradox that a careful economic analysis of law and policy, however eloquently and persistently put forth, did not seem to carry the day politically and influence real-world outcomes. And it helped to illuminate the complexities in seemingly clear notions like procedural fairness.

Law and lawyers could also help the enterprise in which the Caltech faculty were engaged. The then-adolescent fields of public choice theory and social choice theory seemed to promise techniques to understand and predict when voting bodies and groups would adopt particular political outcomes. They could also illuminate paradoxes of group choice that made it difficult to reach outcomes that could unambiguously be regarded as fair. But these fields lacked institutional flesh on their analytical bones. What came to be called Rational Choice Political Economy (RCPE) was in its infancy at Caltech, and while RCPE was focused on developing models, Caltech practitioners such as Ferejohn, Fiorina, and Plott were also intensely interested in the institutions they were modeling. As lawyers, my USC colleagues and I had access to a rich base of institutional knowledge in the form of cases, statutes, rules, hearings, and the like. It seemed that we could both use my Caltech colleagues' models and techniques to help

3. Michael E. Levine & Charles R. Plott, *Agenda Influence and Its Implications*, 63 VA. L. REV. 561 (1977), reprinted in EXPERIMENTAL FOUNDATIONS OF POLITICAL SCIENCE 461 (Donald R. Kinder & Thomas R. Palfrey eds., 1993); Charles R. Plott & Michael E. Levine, *A Model of Agenda Influence on Committee Decisions*, 68 AM. ECON. REV. 146 (1978); Linda Cohen, Michael E. Levine & Charles R. Plott, *Communication and Agenda Influence: The Chocolate Pizza Design*, in 8 CONTRIBUTIONS TO EXPERIMENTAL ECONOMICS 329 (Heinz Saueremann ed., 1978).

us understand what we "knew" and show them institutional "stories" which would help guide them in formulating and testing their models.

By the summer of 1975, we had organized a two-week program in which any USC faculty member who wished could spend time learning and discussing social choice theory with several Caltech faculty members, who offered a series of lectures and led discussions. The program was funded by the USC Law School and by money that formed part of the Luce Foundation grant to Caltech. The program would have been difficult to imagine, let alone implement, anywhere else in the country.⁴ The participation of roughly half the USC faculty (about fifteen), drawn from diverse interests and subdisciplines, and half the relevant group of Caltech faculty (four) was a measure of the extraordinary environment that had been created by both institutions.

From those interactions, enough mutual enthusiasm for contact was developed among Caltech and USC faculty that the Luce professorship was expanded into a "program." USC faculty, among them Scott Bice (later Dean at USC), Michael Graetz, Alan Schwartz, and Michael Shapiro, spent one or more quarters at Caltech, pursuing inquiries that helped further their scholarly interests. Ultimately, Graetz, Schwartz, Jeff Strnad, and Matthew Spitzer (now Dean at USC) all served multiyear appointments at Caltech, as of course did I.

It would be inaccurate and unfair to suggest that USC had invented the notion that you couldn't understand law without understanding the society in which it was embedded, and that you shouldn't create law without using other disciplines to understand its likely effects. This view had its earliest roots in Holmes and Brandeis and important antecedents at Chicago, Columbia, and Yale. Any attempt to trace its lineage would have to include Aaron Director, Ward Bowman, Fleming James, Joseph Goldstein, Friederich Kessler, Harold Lasswell, Edward Levi, Carl Llewellyn, Myres McDougal, and others as among its earliest practitioners, and Robert Bork, Guido Calabresi, Ronald Dworkin, Lawrence Friedman, Henry Manne, Stewart Macauley, Frank Michelman, and Richard Posner as among the best known and most influential of the second wave. The USC pioneers were mostly their students, as were the leading interdisciplinary

4. The only thing remotely comparable was the series of summer institutes in economics for law professors organized by Henry Manne at the various institutions with which he was affiliated (the Universities of Rochester and Miami, Emory University, and George Mason University). Those institutes were very influential in spreading interest in law and economics around the country, but did not represent an institutional commitment by any particular faculty. Its attendees were drawn in very small groups from many faculties and their institutions made no commitments to the project.

practitioners scattered elsewhere in small groups throughout the U.S. legal academy.

While it would be fair to say that a few practitioners of this approach could be found at many major law schools in the early 1970s, they were marginalized at all but a few. And even where their approach was regarded as significant (such as at Yale, Chicago, and Stanford), it was embedded in, outnumbered, and surrounded by the work of other, more traditional legal scholars. Many faculties and even more faculty members were sufficiently outraged by the implications of this approach that they reacted with hostility to those who used it. And nowhere was it dominant, although by the late 1960s it had become an important part of the environment at Yale.

But USC was different, and the difference mattered. At USC, the notion that you couldn't really understand law without understanding the society in which it was embedded permeated the institution. When the USC faculty hired, it asked, "Does she know enough about the interdisciplinary implications of the work she does to succeed here?" When the faculty taught, they used traditional doctrinal analysis as a foil to *illustrate* the approach that would be used by the sort of lawyer, judge, or scholar who didn't really "get it." This approach had been embodied in the "Law, Language, and Ethics" course required of first-year students as part of the early work of Bishin, Lefcoe, Martin Levine, Stone, and others, as well as in their work on land use control, criminal, and environmental law, among others. The approach carried on through the work of those they recruited to the faculty, and those recruited by the new recruits. This was the USC standard, and the Caltech connection was its embodiment across institutional as well as disciplinary lines. Using this model, in the 1980s, USC recruited such interdisciplinary figures as Joseph Bankman, Alexander Capron, Richard Craswell, Thomas Griffith, Elyn Saks, and James Strnad.

All this naturally had an impact on students. It is evident in the published work in the *Southern California Law Review* of the period. And it became part of the worldview of scholars who got their training at USC. We started to look for USC law students who might be interested in a joint Ph.D. program and for Caltech students who might be interested in law. The first such student enticed into a joint program was Matthew Spitzer, who ended up working in the area of regulation under Roger Noll and myself. Somewhat later, Linda Cohen, a Caltech Ph.D., got pulled in the other direction and learned law. The distinctive character of the approach strongly shaped the work of Margaret Radin and later Heidi Hurd, who stayed outside the Caltech orbit but developed a very USC-distinctive

scholarly style. Ronald Garet, currently a member of the USC faculty, was recruited as a newly minted Ph.D. in Religious Studies from Yale to study law at USC, with the idea in mind that he would join the faculty upon completion of his law degree!

As this work became noticed, it had an impact on other faculties as well. The inevitable process of cross-institutional recruitment sent Epstein to Chicago, Ellickson, Graetz, Schwartz, and myself to Yale (in my case, to the School of Management); Bankman, Craswell, Ellickson, Margaret Radin, and Strnad to Stanford; and Hurd, Moore, and Morse to Penn. At all of these places, the USC "veterans" became influential members of their new faculties and spread the influences they had brought to and developed at USC.

Other than sheer institutional pervasiveness, what were (and remain) the distinguishing features of the USC approach to interdisciplinary law study? Six characteristics stand out:

USC interdisciplinary study was generally more problem-focused than discipline-focused.

Its practitioners had an interest in and willingness to commit time to reading and discussing work grounded in disciplines other than their own.

The problem focus encouraged its practitioners to be open to institutional information from "real life."

It allowed the possibility that more than one discipline might enlighten a legal problem.

This allowed practitioners (e.g., Levine, Ellickson, Morse, and later Radin) comfortably to use more than one discipline at various times on various problems.

Because of this, it contained less ideological and disciplinary purity than might have been found elsewhere (although the passionate and largely consistent advocacy of Epstein, and the disciplinary purity of Moore and Schwartz, suggests that there was room for variation).

These characteristics were developed and reinforced weekly in the institution of the USC Faculty Workshop, which arose out of a perceived need to provide a common intellectual meeting ground for a faculty engaged in widely varying pursuits. A number of us had experienced Chicago's Industrial Organization Workshop or Yale's Non-Hohfeldian Workshop. (In my case, I had experienced both.) We thought they left something to be desired. In the first place, they had ceased (although this was somewhat less true at Chicago) to be forums in which the "home"

faculty exposed their work. They had rather become opportunities to reinforce group solidarity by attacking “outsiders” who were members of other faculties, appointments candidates, or junior faculty members working their way toward tenure.

In designing the USC workshop series, we tried to improve on these models. Rather than simply allowing USC faculty members to present their work to one another, the workshop’s format assumed that the faculty had read the work at hand and had as its main “presentation” a discussant’s comments. The discussant was always a member of the faculty. The author gave a brief response and then questions were put from the floor. The discussant was very often a faculty member drawn from a different subdiscipline or working with a different set of models or first premises. The avowed intention was to improve the paper being presented by exposing it to comment from a broad range of viewpoints. Slashing attacks were severely discouraged by peer pressure.

The very first workshop had as its centerpiece Ellickson’s pathbreaking work using economic models to explore the effects and policy implications of zoning and its alternatives.⁵ As the first workshop series “impresario,” I selected Larry Simon as commentator. Simon was not an economist, but had a strong interest in issues of constitutional equity and a broadly inquiring mind. He delivered a brilliant and constructive commentary on a superb paper. This (moderately predictable) happenstance both challenged the faculty to maintain the level and tone of the proceedings when the floor was opened and set an ethos for future workshop events which has survived to this day, and which was strikingly evident in the two “homecoming” workshops held as part of the Centennial celebration.⁶ It also established, in a striking way, that valuable and constructive commentary could be provided by a colleague who found a problem interesting and used the perspective of another subdiscipline or line of inquiry further to illuminate it. It further established that even a first-rate paper could generate comment from colleagues with primary

5. Later published as *Alternatives to Zoning: Covenants, Nuisance Rules, and Fines as Land Use Controls*, 40 U. CHI. L. REV. 681 (1973), reprinted in BRUCE. A. ACKERMAN, ECONOMIC FOUNDATIONS OF PROPERTY LAW 265 (1975).

6. The papers presented at these workshops were authored by Elyn Saks and Alan Schwartz. Elyn R. Saks, *Incompetency and Impairment: Choices Made, Choices Denied* (2000) (unpublished manuscript, on file with Professor Saks), forthcoming in ELYN R. SAKS, LAW, ETHICS, AND SEVERE MENTAL ILLNESS: QUESTIONING OUR VALUES; ALAN SCHWARTZ & JOEL C. WATSON, ECONOMIC AND LEGAL ASPECTS OF COSTLY RECONTRACTING (Ctr. for Studies in Law, Econ., & Pub. Policy, Yale Law Sch., Working Paper No. 242, 2000), available at http://papers.ssrn.com/paper.taf?ABSTRACT_ID=224444.

interests far removed from its author's that was challenging and non-hostile, and that opened avenues for improvement. This cross-disciplinary aspect became a desideratum in pairing papers with commentators.

The workshops were enormously successful. Rather than finding them an unpleasant imposition, tenured faculty became eager to expose their work in them, both for the prospect that comments would improve the work and as an act of intellectual community. And while junior faculty could hardly be free of anxiety as they presented, trust that they would not be gratuitously humiliated limited the response to healthy apprehension rather than morbid dread. USC became one of the most productive and constructive scholarly environments in legal education.

As I have already suggested, this environment benefited from the fact that at USC, interdisciplinary work was considered a routine part of understanding interesting legal problems, rather than simply seeing, e.g., law and economics as a vehicle to develop and exercise disciplinary models. "This problem is interesting, what do I need to know to understand it?" was a more characteristic USC approach than "I am an economist, what can I say about this?" This meant that when it became clear that, say, economics left large gaps in the understanding of a problem, one might ask what other disciplines, perhaps political science or philosophy, might further illuminate it. And it meant that you might seek out a colleague whose interdisciplinary expertise was different from your own as you looked for comments on a draft. Eventually, you might incorporate more than one discipline in a highly integrated way, as Morse has done using psychology and philosophy to address culpability and criminal responsibility. The faculty workshops reinforced all of this.

My own work reflected this approach. After I had learned the hard way that directing (even from the inside) the attention of those with regulatory responsibility toward policy changes which would improve both efficiency and equity did not produce change, I tried to understand where the constraints were. Once I was able to identify the constraints, I became so convinced of them that I assumed that making changes that conferred diffuse benefits on an unorganized public but imposed concentrated costs on organized subgroups was impossible. Notwithstanding this intellectual conviction, I got involved in airline deregulation as a government official in the Carter Administration and was somewhat surprised to see the effort succeed. This immediately raised questions as to whether the political-economic focus which had "explained" the existence of airline regulation (and a host of other inefficient and inequitable market interventions) could "explain" its reversal through airline deregulation. Perhaps the "public

interest” explanation of regulation was not empty. But if so, how did it interact with a political-economic theory that had seemed and still seems to explain so much? I have since addressed (but not answered) elements of these questions in three subsequent written contributions,⁷ using a broader analysis drawn from political philosophy to supplement my earlier focus on rational choice political economics.

The work of Robert Ellickson presents an even more dramatic and compelling example. Ellickson started out interested in how to manage competing interests in land-use situations. In pursuing his interest, he became almost immediately aware of the economics of externality, whose implications he explored in a series of articles following the paper cited above.⁸ The core of the economics involved was ultimately expressed in the Coase Theorem. Coase had used an example (straying cattle trampling crops) to analyze outcomes and illustrate his point. Having done a number of analyses of land-use problems, Ellickson came upon an environment (Shasta County, California) in which the Coase example existed in as pure a form as possible. This led to an empirical investigation that concluded that the legal assignment of rights (in this environment) was not as important as the internalization of social norms.⁹ Ellickson went on to generalize from this and explore the links between norms and law in his seminal book *Order Without Law*,¹⁰ which ultimately won the Triennial Coif Award.

Ellickson’s scholarly curiosity then led him to a variety of investigations into how socially recognized rights are created and assigned inside and outside the law. He explored whaling.¹¹ He explored the way panhandlers, the homeless, and “benchesitters” used the streets and the legal, norm-based, and economic constraints on their behavior. He chronicled the behavior of people committing what he called “chronic street nuisances” in dividing up “turf,” and he integrated those insights into a policy analysis of

7. Michael E. Levine, *Regulatory Capture*, in NEW PALGRAVE DICTIONARY OF LAW AND ECONOMICS 267 (1998); Michael E. Levine, *Revisionism Revised? Airline Deregulation and the Public Interest*, 44 L. & CONTEMP. PROBS. 179 (1981); Michael E. Levine & Jennifer L. Forrence, *Regulatory Capture, Public Interest, and the Public Agenda: Toward a Synthesis*, 6 J.L. ECON. & ORG. 167 (Special Issue 1990).

8. *Supra* note 5.

9. Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623 (1986), reprinted in 18 LAND USE & ENV’T L. REV. 79 (Stuart L. Deutsch ed., 1987).

10. ROBERT C. ELICKSON, *ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES* (1991).

11. Robert C. Ellickson, *A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry*, 5 J.L. ECON. & ORG. 83 (1989).

the social management of panhandling.¹² In the course of these explorations, Ellickson followed the problem where it led him and explored the disciplines that were necessary to understand it. He went so far as to explore how problems of social control had been addressed historically, which led him into the ancient civilizations of the Fertile Crescent.¹³ In short, Ellickson has developed both a theory and an inventory of practice addressing externality control that has encompassed land-use controls, resource management, social obligations to the poor, and urban planning using economics, sociology, and history with great ingenuity and facility.

Anyone who knows Ellickson would hesitate to give too much weight to the influence on him of his immediate surroundings, but I believe that USC's environment and values profoundly influenced and facilitated his openness and ability to use such a wide variety of interdisciplinary tools in pursuing the problems that have interested him through an extraordinary scholarly career. He was exposed early to an environment that took for granted as appropriate for legal scholarship his developing willingness to use all the intellectual resources available to the university to pursue the answers to the problems that interested him. Far from being the impediment to appointment and promotion that was the norm in the early 1970s, this orientation was celebrated and encouraged at USC. And his colleagues were willing, even eager, to engage his work from a variety of perspectives, exposing him to new possibilities in the process. He has ultimately pursued his career in the two law school environments which in the 1980s and 1990s most approximated USC in the degree of ease with which they accommodated interdisciplinary work. Even though (in the case of Yale) these environments had a history whose origins predated USC's, it is fair to say that at both Yale and Stanford, general acceptance of this approach as a natural and expected part of legal scholarship did not occur until the 1980's and was reinforced by recruitment of scholars from USC.

The "Law and . . ." approach is becoming much more common in American law schools.¹⁴ But its practice in most schools is usually less instrumental, less pragmatic, more discipline-based, and less a focus for faculty discussion across a wide range of disciplines than it has been at

12. Robert C. Ellickson, *Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning*, 105 YALE L.J. 1165 (1996).

13. Robert C. Ellickson & Charles DiA. Thorland, *Ancient Land Law: Mesopotamia, Egypt, Israel*, 71 CHI.-KENT L. REV. 321 (1995).

14. Robert C. Ellickson, *The Market for "Law-and" Scholarship*, 21 HARV. J.L. & PUB. POL'Y 157, 158-63 (1997).

USC. My recent Centennial visit and participation in the day of Faculty Workshops that formed the faculty centerpiece of the celebration reminded and reinforced for me that the USC ideal is still best embodied at USC. Through faculty transfers it has enriched Yale, its progenitor, and Stanford. It also has served as a model at NYU, where it has been used especially well in a large-school setting. Although the rest of American legal education has come to accept interdisciplinary study, both the breadth of USC's approach, and its openness to many disciplines simultaneously continue to provide a challenge to the rest of American legal education.