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Liberal Education in a Progressive Era

Ralph A. Rossum, Salvatori Professor of American Constitutionalism

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Madam President, Dean Ascher, honored faculty and staff on the stage with me, my colleagues on the faculty, members of the administration and staff, and students (and *especially* members of the class of '08).

I want to begin by expressing my gratitude to those who have been recognized for your years of service to CMC. The proudest day in my professional life was the day I was appointed a faculty member at CMC. You were the people present when I arrived and who had made it the place I so very much wanted to join. I thank you, and I thank all who have been so recognized in the years past, and on whose broad shoulders we now all stand.

I also want to thank President Gann and Dean Ascher for the invitation to address you this morning. It is an honor. It has also provided me the opportunity to think through what I would want to say to a gathered assemblage of colleagues and students. My remarks are entitled "Liberal Education in a Progressive Era." It was a title, I should note, that I hurriedly had to supply to the Dean's office as it was seeking to go to press with its orientation brochures. Those who know me may well have wondered why I am giving a talk with both the words liberal and progressive in the title. There is a reason – a very good reason – for doing so, and I will devote a portion of my remarks to that topic, anon. But, as I thought about what I really wanted to say, after I had submitted my title, I realized that what I really wanted to talk about – or at least begin by talking about, is CMC and what a special place it is. These remarks are especially addressed to the students, as many on the faculty, in the administration, or on the staff already appreciate CMC's distinctive excellence. And some of them have perhaps heard some of what I am about to say in the past.

I teach constitutional law, and as those of you who know anything about the law know, it involves reasoning by analogy. I find analogies useful, and given the fact I am a car nut, I am often drawn to comparing whatever it is I am talking about to cars – those students here today who have taken my national powers course in constitutional law may recall my suggestion that courts entertaining institutional-reform litigation are as ill-equipped for that task as are Formula One cars for driving in rush hour on the 10 Freeway. However, I had never thought to compare colleges to cars until I read a book by Henry Rosovsky, then Dean of the Faculty of Arts and Sciences at Harvard, entitled *The University: An Owner's Manual*.

As you know, cars come with owner's manuals, and owners can learn how to get maximum enjoyment, economy, and utility from a car by carefully reading the manual, and it was Rosovsky's point that students needed an owner's manual to take maximum advantage of their school. There was, however, one problem with Rosovsky's analogy. People don't get a generic owner's manual; they get one for their specific brand and model. That got me to thinking: if CMC were an automobile, what would be the brand and model on its owner's manual? What kind of car would CMC be?

As I thought about it, the answer was immediate and obvious: CMC is a Porsche 911. Let me explain why:

Both are small and sporty and intended for the fortunate few; both were designed in the 1930s and came into being in the post-World War II era. Both have classic designs – the shape of the first Porsche is clearly evident in the revised 2005 model. Both have distinctive missions, and reject the idea of being all things to all people. Both are very expensive – the cost of your CMC education is depriving many of your

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parents of a Porsche Carrera 4. Because of their classic shape, both are less than ergonomically-optimal. Air conditioning is not always standard, and when it is, it doesn't always work.

Both also hold or increase their value. I could go on, but will limit myself to one further analogy. A Porsche 911 is a true performance car. Nevertheless, it can be driven around town with ease. It is docile and reasonably quiet, and the ride is tolerable. But, it truly comes into its own when it is pushed to the limits. Then it sits down on its frame, hugs the road, and delivers the ride of the driver's life. As with a Porsche 911, so, too, with CMC. The school is small and comfortable, and it will reward your efforts, however indifferent. But, it also comes into its own only when you push it to the limits. The more you demand of the College – its faculty, its coaches, its curriculum, its programs and opportunities, and yourself – the better it will perform, the more exhilarating your intellectual experience will be, and the more you will benefit from your years here.

If I am right and CMC is a Porsche 911, what makes up the various components of this superb car?

On behalf of my faculty colleagues, I would suggest that the faculty is the power-train. We supply the intellectual firepower to move from where you were when you entered CMC to where you will be when you leave. We are not some lumbering diesel engine in a huge tractor trailer carrying mass-produced vocational or professional education to some huge university. Neither are we some under-powered primitive 4 cylinder engine in a conventional college sedan delivering a liberal arts education by those who believe that teaching is impaired rather than enhanced by research. We are, if I may be so bold, a highly-tuned, technically-advanced, high-revving and powerful engine that, through our careful recruitment of distinguished professors and our ongoing commitment to the teacher/scholar model, can drive you to new heights of personal, intellectual, and professional understanding and achievement.

Our Porsche needs more than a powerful engine. It also needs excellent brakes. Anyone can stand on the accelerator; many fewer know when, and how, and how much to brake. I once attended the Skip Barber Racing School, and all of their chalkboard instruction before they let us near the Formula Fords we were to drive was devoted to braking. If the faculty is the power-train, I would submit that the devoted staff members in the Dean of Students office are the brakes. In many different ways, they teach students how to discipline themselves; they establish a climate that emphasizes how to restrain one's passions and impulses, how to become a mature responsible adult.

A great power-train and great brakes are of little advantage without a supple suspension to keep the car on the road in the curves, and in control under heavy braking. I believe the suspension that CMC provides to its students is supplied by the student body itself. Students at CMC, I have noticed, are there for each other; offering encouragement and moral support when one is down; keeping others from sagging under the weight of academic, family, and social problems; freely offering academic assistance to each other in an environment wonderfully-free of a "cut-throat competitive" spirit; providing incentives for each other to strive after opportunities because, as I have so often heard students say, "if he can do this, then there is no reason why I should not try to do that."

All of these components sit idly, however, without fuel. Fuel for CMC is money, and money comes from two primary sources: tuition dollars from students and their parents, and generous, often sacrificial, donations brought to the college through the inspiring efforts of our development department. Customers

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want Porsches because of the promise of performance; CMC's donors want to contribute for the same reason.

The Porsche 911 has been around for a long time and is recognized for what it is, regardless of the model year. Yet, it has clearly changed through the years, and for the better. So has CMC, and for that we have the administration and the trustees to thank. It is their job to make CMC ever better, responding to a changing world while always remaining true to the original design, to the mission.

And, what am I: I am a member of the faculty, and therefore part of the power-train, but today, I am more. Along with the superb Admission staff, I am obviously a salesman. And I am a satisfied customer – our oldest son Brent is a member of the class of 2001. And I am not only a customer, I am also, like most Porsche owners, a repeat customer – our youngest son, Pierce, is a member of the class of '08. Now, let me shift gears, if I may, and offer some remarks on the actual topic of my speech. As you heard, I am Director of the Rose Institute of State and Local Government. This past year, we have conducted a multi-conference program entitled "Governing California in the 21st Century." Governing California, we demonstrated, has been complicated, more than in any other state, by the extraordinary use made here of the direct ballot. California has a progressive-era constitution (hence part of the reason for my title) that includes such direct ballot provisions as recall, referendum, and initiative. We have made frequent use of the direct ballot to pass scores of initiatives and referenda; recently, as we all remember, we have made use of it to recall a politician who fell from favor.

These provisions reflect the progressives' conviction that the cure to the ills of democracy was more democracy. As the great progressive politician Woodrow Wilson argued in a chapter in his 1912 Presidential campaign book *The New Freedom* entitled "The People Need No Guardians": the framers of the U.S. Constitution were "willing to act for the people, but . . . not willing to act *through* the people. Now we propose to act for ourselves." It goes without saying that the progressives' views on these matters were completely different from those of H. L. Mencken, who defined democracy as giving the people what they want and giving it to them good and hard.

The direct ballot provisions of the California Constitution have in turn produced other provisions that have made life interesting in California, and that have led a number of its critics to suggest that most of the problems that California confronts today are a result of those provisions entered into our State Constitution by the Progressives a century ago.

And there is a serious case to be made that our problems can be traced to these direct ballot measures. Let me give some examples. The recent budget crisis in Sacramento, can be traced to a number of things. In part, to Proposition 13, which in 1978 imposed the requirement that any new taxes in the state must be approved by two thirds of the legislature. When this is added to earlier language in the original Progressive era constitution requiring a two-thirds approval of the budget, a variety of interesting problems have arisen. First of all, it has given a virtual veto to the minority party; second, it has resulted in the annual delays in the passage of the budget; and third, it has undercut political accountability. To get a budget passed, one party can't do it alone. It needs at least a few members from the opposing party, which means that the citizenry cannot hold one party accountable for either increased taxes or decreased services.

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A decade after Prop. 13, Prop. 98 was passed in 1988. Proposition 98 ensures that approximately forty percent of the state general fund tax revenues go to public education and community colleges. This ballot box budgeting measure has been followed by subsequent propositions which have likewise earmarked certain portions of the budget for items such as park lands and roads. The result of all of this, of course, is that the legislature's discretion over spending has been substantially restricted. Two years after Prop. 98 came Prop. 140, which imposed term limits. And one of the results of term limits has been the weakening of legislative leadership, ensuring less experienced legislators and leaders. Not even an earlier proposition, Prop. 1A, has seemed to be particularly helpful. Prop. 1A, in 1966 converted us from a part-time citizen legislature to a full-time professional legislature. And, in fact, there are increasing numbers of academics, journalists, and even politicians (Arnold Schwarzenegger comes to mind) who are now arguing that one of the reasons we are in the difficulty we are, is because we have full-time legislators in Sacramento with plenty of time on their hands to spend on fundraising and activities concerning special interests, rather than the general well being of the state.

To give one example of why the full time legislature may not be the great boon that it was promised to be, at least in the academic press, I will simply mention that California's professional full time legislature was responsible for California's abysmal failure to deregulate energy. The comedian Dennis Miller says that in California, we are buying energy at mini-bar prices. Contrast that with the part-time citizen legislature of Texas which achieved stunning success in true deregulation of energy in that state.

Now that is the case on the one side. Those who believe that the direct ballot is necessary have a response. They point out that government officials can easily develop what one of the founding fathers, James Wilson, described as official sentiments, contrary to that of the public at large. Too many elected officials are interested only in their re-election and are willing to sell out, not only their party, but also the public interest, to secure safe seats. Instead of voters choosing their legislators, today in California we have legislators who choose their voters through the way they have gerrymandered their districts. Too many legislators see taxpayers as cash cows whose money they milk to sell to special interests. Too many fear that without caps on real estate taxes at the local level, and on new taxes at the State level, the short term interest of politicians to gratify the interests of those whose assure their reelection will take precedence over the long term interest of citizens; of homeowners priced, by taxes, out of their own homes; of small business owners forced to move out of state or to close their doors because of ruinous taxation and regulation; of young families closed out of the middle class by a hostile economic climate. They would argue that the direct ballot is a way to ensure that what the majority wants is enacted, whether the legislature and the governor want it or not. It is a way for them to protect their assets, a way for them to establish their values in law (consider the passage of Proposition 22 in 2000, which defined marriage as between a man and a woman), and also to express outrage towards those politicians who, like those missionaries of old, may have initially come to do good, but have simply stayed to do well, and who, in the process, have learned to engage in the game of pay to play politics, honed to a fine art by Gray Davis.

Whatever one's own personal views about the direct ballot, it is here to stay. On the November 2004 ballot, there are 16 propositions on the ballot for the voters to decide. They range from issues concerning open public meetings, to children's hospital bond projects, to mental health services to be paid by a special tax on those with taxable net income of over \$1 million, to a modification of the three-strikes law, to funding for emergency medical services by telephone surcharges, to stem-cell research. Four measures are particularly interesting. Two of them, Propositions 68 and 70 deal with Indian gaming. The measures are diametrically opposed. Depending on how well the backers of these measures can obfuscate what is

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really at stake, both may pass. In that case, the proposition that receives the greatest number of yes votes will prevail. Two others, Propositions 60 and 62, deal with reform of primary elections. One, backed by a variety of electoral reform groups, would have the top two vote-getters in the primary appear on the ballot in the general election, even if they are both from the same party. The other, backed by incumbents in the California legislature, would guarantee each party a candidate in the general election. The same rule will apply here. Both may pass, and the one with the largest number of votes will prevail.

Publius in *The Federalist* once noted that a republican government, more than any other, requires a high degree of virtue among its citizens, because they have a greater responsibility in the formation and administration of the laws. This is particularly true in a state like California where citizens participate directly in the formation of laws through the initiative process. Citizens here are called on to judge not only the character and worthiness of candidates who will make laws on their behalf, but to participate actively in the passage of legislation itself, legislation that often has a profound and far reaching impact on their daily lives as well as on the well being of the state. In this regard, the value of a liberal education (and here, the other word in the title of my speech) cannot be underestimated.

Claremont McKenna College is a community dedicated to liberal education. We seek to free ourselves and our students from the tyrannies of unexamined opinions, current fashions, and inherited prejudices; we also seek to enable ourselves and our students to make intelligent, free choices concerning the ends and means of both public and private life.

If all citizens of California had a CMC education, the ability of the electorate to cast intelligent votes on all of these direct ballot measures would be assured. But they do not, and here comes the challenge to all of you. CMC prides itself in preparing students for leadership. You are students here, and therewith comes a responsibility to exercise leadership. You are blessed (or are in the process of being blessed) with a superb liberal education that gives you the capacity to judge on the ends and means of private and public life. Your capacity to judge both on the character of those who represent us and the appropriate means and ends of public life (and your leadership skills that you have or are developing) obligate you to serve the public interest by engaging your fellow citizens in a serious discussion of these upcoming issues (not only this year but in the years to come as well). The election is now less than two months away. Consider this a homework assignment to you from me, a professor on sabbatical.