

Council counsels morality

The Eugene City Council sent a message of control to the campus community Monday night by passing the party response fee and smoking ban ordinances. The council told party-goers to control themselves: Don't gather in groups of more than 25, don't be too loud and don't allow underage people to drink. If students go to bars instead of risking an out-of-control party, the council voted, they must control themselves there, too, and not smoke.

All of this control has the editorial board concerned. We don't see how the council's actions will better the community. In fact, these ordinances run counter to the freedom that America values and the limited police powers that keep us safe, and they should not have been passed.

First, let's look at the party response fee. The response fee is needed, police say, to prevent underage drinking and to recoup funds spent on policing parties. We find it impossible to believe that empowering police to collect funding by knocking on doors and looking for crime will actually cut down on underage drinking.

Underage drinking is certainly a real threat to young people. Alcohol consumption poses grave health hazards even to adults, and people under the age of 21 should wait to drink. But if America wants to stop underage drinking, we need a society-wide effort.

Children should be educated about alcohol in required classes in middle school, high school and college. The media should stop portraying drunkenness as the ultimate joy in TV shows, movies and advertis-

ing. By watching ads on TV, students would think that drinking solves all their problems and brings hordes of attractive people to their feet. If alcohol isn't treated as a forbidden delicacy, kids will stop wanting it.

The police also say the response fee is needed to pay for enforcement, but society doesn't fund law enforcement in that manner. Criminals don't pay police salaries. Laws provide fines and jail time in order to deter criminal behavior. We do not then charge for the policing costs, as well as for the fines for the crime. That sounds like double jeopardy.

As a society, we pool our money to pay for public safety. If Eugene wants to fund police differently, why stop at students? The city could save even more tax money if we got rid of publicly funded police altogether. Instead, let's have bounty hunters. They could capture criminals, and the criminals would pay the costs.

We make the point broadly, but policing is supposed to be a community caretaking function, which everyone pays to protect the whole community. The response fee singles out students — despite what councilors at Monday's meeting said — and encourages police to cite them in order to collect a paycheck. This ordinance turns police into bounty hunters, and that's scary.

If they can't host parties, what are over-21 students to do? Head to the bars, of course. Unfortunately, students' lives are being controlled in bars, as well. The smoking ban also poses a threat to the liberty our country was founded on.

Generally in America, we allow businesses some autonomy in how they operate. We certainly have regu-

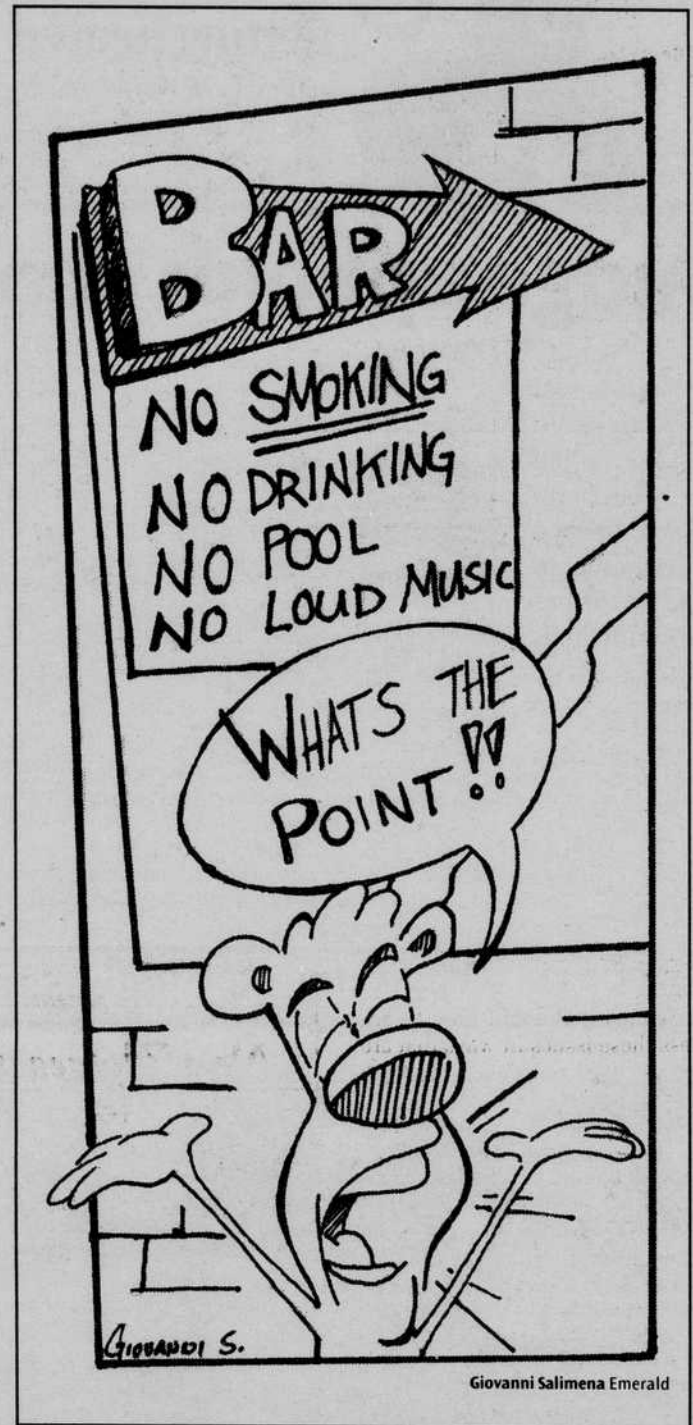
lations in place to protect greater societal goods, such as environmental regulations to lessen the poisoning of the planet, and labor laws to prevent wholesale greed and grievously unsafe working conditions. But the planet still gets poisoned, and some jobs are more or less safe than others.

Workers choose the level of risk they're willing to accept for the benefits of employment. Higher risk jobs pay more, and alcohol service jobs follow this trend. Bartending and cocktail service pay a lot of money and require little or no education. If the risk isn't worth it to an individual, fast food restaurants are always hiring, and no smoking is allowed in those establishments.

The smoking ban takes freedom away from businesses and consumers, with only the health risks of smoking as justification. True, smoking is unhealthy. But then, so is drinking. Adult consumers and business owners should have the choice to sell, purchase and consume legal products, unhealthy or not. Let the free market decide how many non-smoking bars exist based on demand, and employees can decide where to work.

Overall, the City Council needed to be controlled Monday night. Problems may exist with partying on campus and with the health risks of smoking, but society will never be able to legislate problems out of existence. The council should look for preventative solutions to these problems, instead of penalizing students and taking consumer choices away.

This editorial represents the opinion of the Emerald editorial board. Responses can be sent to ode@oregon.uoregon.edu



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Constitutional crisis a scary possibility, but unlikely

GUEST COMMENTARY

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WASHINGTON — If Al Gore takes Oregon and New Mexico's electoral votes, which appears possible, then he would have 267 electoral votes to George W. Bush's 246.

And if Florida does not appoint its 25 electors, then a candidate would need only 257 votes to win, because neither the Constitution (Article II, Sec. 1 & Amends. XII & XX) nor the applicable statute (U.S.C. Title 3, Ch. 1) says that a majority of all possible electoral votes is necessary to elect a president.

The Constitution says that whoever gets the "majority of the whole number of electors appointed" wins. The statute on the vote-counting process contains elaborate provisions for settling disputes over competing slates of electors or over the legitimacy of challenged votes, but it does not say that a state must have countable electoral votes.

*The language of the law contain-

plates that a situation could arise in which both houses of Congress agree that a state's votes are illegitimate and should be thrown out and replaced with nothing. Indeed, in 1864, 11 states failed to send electoral votes, and the election was held without them.

So what happens if Gore loses in Florida and challenges the result in court, with a view toward preventing Florida from casting any electoral votes? And what if no judicial decision has been rendered by January?

Under the statute, both houses of Congress assemble on Jan. 6. The certificates and papers from each state are opened in alphabetical order ("beginning with the letter A," says the law — Congress can speak clearly when it wants to). As the certificates from each state are read, the president of the U.S. Senate (named Al Gore) calls for objections.

If any are made, then the houses separate and resolve them before continuing on to the next state. If no proper objections are registered, the tally continues. The law makes no provision for an objection if there is no paper from a state that purports to be a certificate of elec-

toral votes.

So the tally might simply skip Florida and move on. The final total of 267 to 246 would be announced and Gore would declare himself the winner. When the tally skipped Florida (or at the end, or in both instances) then surely all hell would break loose on the floor. The proceedings might be suspended and legal decision sought.

But the decision would appear to be legally correct. In any event, even if it is dubious, suppose the president of the Senate (Gore) ruled objections out of order, since there was no certificate from Florida before the body and the statute provides only for objections to certificates and papers?

Then he could continue and certify the count over the objections of the dissenting members. And declare the winner: Al Gore. Arguably, by the way, the statute also says that this announcement is conclusive, not subject to judicial review.

It is difficult to imagine the Republicans playing out this scenario, and several responses would be available. The governor of Florida, looking into this abyss, might certify electors regardless of the

state of play in the courts.

Under the federal law, this certification would be final unless overturned by both houses of Congress. Of course, Florida Gov. Jeb Bush might decline, given the uproar this would cause. If Jeb Bush refused himself, a Democratic secretary of state could certify Al Gore.

The U.S. House might reject this effort, but what happens if the Senate is tied, 50-50, and ties are broken by the vote of its president, Vice President Al Gore? Then the certification would stand. Or a state official other than Jeb might certify George W. Bush rather than Gore.

This would be upheld in the House (the Senate is not needed to uphold, only to reject). But the uproar would ring for centuries.

So imagine Florida is indeed paralyzed and no certificate is issued by anyone. Then the Republicans could play tit-for-tat. If Gore stalls Florida's vote, Republicans could move to knock out states that gave the edge to Gore.

Even a Republican governor might be reluctant to go along with a ploy that denigrated the legitimacy of his state's procedures, but the situation is unusual. The Democ-

rats would counter, of course, and the race would be on. A final response to a failure of certification by Florida would be a quick new law resolving the situation. Fat chance.

And if the situation is not resolved by Jan. 20, then meet President Dennis Hastert, who takes office if neither a president nor a vice president is selected.

At that point, of course, new laws become possible. There are other possibilities, including actions by the Florida Legislature, competing slates of electors, faithless electors, further complexities in the federal review process and so on. But surely there is no point in continuing.

All this must be only a nightmare — it's inconceivable that either of our major parties would even think about bringing this on the nation. Surely both will agree to abide by the Florida recount, and will reject the option of a broad challenge that ties things up in the courts past the vote counting on Jan. 6.

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