

New ABA Opinion Permits Lawyer Interviews

By Michael Lurey

In its recently issued Informal Opinion 1150, the American Bar Association announced that lawyers may grant interviews concerning their careers and their law firms to independent researchers, even though the results may be intended for publication.

The opinion in effect overrules the existing interpretation of

Canon 27 of the Canons of Professional Ethics, and Rule DR 2-101 of the recently-enacted Code of Professional Responsibility which has replaced the Canons.

The old interpretation was that a lawyer could not cooperate in any study, even one undertaken by an independent source, where the result of the study might be favorable publicity for the law-

yer. This restrictive rule had been reached under Canon 27 by the New York courts in the 1963 decision *Matter of Connelly*.

The restrictive rule was apparently approved by the A.B.A. in promulgating the new Code, because the *Connelly* decision was cited in a note to Rule DR 2-1-1, successor to old Canon 27.

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HARVARD LAW RECORD

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TWENTY CENTS



Buddy Warner

William M. Kunstler

An Emotional Kunstler Greeted by Ovations

By Mark Goldowitz

William Kunstler, chief attorney for the "Chicago Conspiracy Eight-Seven-Ten" emotionally addressed an overflow crowd in Sanders Theater last Saturday on the Movement, the courts, the Black Panthers' trials and personal moral choice.

Moved by the long ovations from his attentive audience, Kunstler outlined his fight for "a vision of the future that isn't

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Group Submits Law Clinic Plan

By Richard Hoffman

With the arrival of spring, the Law School faculty is faced with a proposal that appears on the scene with the frequency of death and taxes: granting of academic credit for clinical and research organization work.

This year, however, it's considered more likely that some plan may be approved by the faculty.

Officers of various Law School organizations, including the Community Legal Assistance Office and the Civil Rights-Civil Liberties Research Committee among others, have already spoken with Dean Derek C. Bok and Professor E. A. Sander, who heads a faculty panel which is considering the various schemes. The civil rights group submitted a 17-page proposal.

The Civil Rights-Civil Liberties plan, entitled "Proposal for a Harvard Law School Program for the Development of Human Rights Law," calls for a three-pronged effort, which would include:

- Research and fieldwork for attorneys
- A clinical litigation seminar
- A "public interest law firm" within the school.

Both academic credit is asked for this work, along with substitution of written work prepared under its aegis for the third-year paper requirement. The civil rights committee would prefer that pass-fail grades be employed in awarding credit.

Faculty participation in the programs, effective supervision by outside attorneys, and steadier planning possibilities are stressed as both reasons for the program's

The Backbencher

approval and justifications for granting credit.

Although students have previously been permitted to offer work on various projects in lieu of the third-year paper, the faculty has never set forth any definite policy on this matter. But the fact that the request has been made before and not granted indicates that until now, the professors have been loath to open the door to credit given for non-academic work.

Officers of the Civil Rights-Civil Liberties Research Committee
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Troika Leads Democrat Club

By Bob Hernandez

After a frenzied search for leadership, the Democratic National Committee was saved when Larry O'Brien agreed to return to the helm several weeks ago. The Law School's Democratic Club was not quite as successful in its own re-enactment of the drama.

During its election meeting last month the club failed to find any candidate for president from among the twenty members present. The group finally decided to appoint a temporary "Caretaker Committee" to determine the club's future and provide a transition into the fall.

"It was like that story in Casner and Leach," said one observer. "When a whale would wash onto the New England shore, the local residents would wait for a New York tourist to take a look at it and charge him with possession. He'd have to pay for the cost of removal."

Tom Chema, 2L, and Lowell Turnbull and Frank Martin, 1Ls, were charged with care-taking duties.

"The purpose of the committee," said Chema, who is acting chairman, "is to make sure there is still a club this year. We couldn't find a president because nobody wanted the position badly enough, and there just weren't very many people at the meeting. We thought it would be inequitable to put someone in the position under the circumstances."

Although the Democratic Club at one time claimed up to 500 members, it has seen a declining membership in recent years.

This year the club's activities were closely linked with the Moratorium. Club president Joseph Gebhart, 2L, was also a state leader of the Moratorium, and devoted much of his personal energy to that project.

Gebhart does not feel, however, that his Moratorium activities affected the club. "I'm not sure what effect the Moratorium had on the club," he said. "But I got

involved not so much for the club as for the Law School and for people who are interested in getting involved in national affairs."

"My view of the club is that it should be a service organization," he continued. "And I think it has been that. Some students might think it has been too closely identified with Moratorium, but that's not true. We've also played a large role in party reform with the McGovern Committee, helping to set up a Youth Committee in the Democratic Party. We've done substantial work for the Senate Migratory Workers Committee. And we've done a lot of other things."

Chema did not disagree on the importance of participation in the

Club Should Be Service Organization

Moratorium. "I think it was very beneficial. It's good to draw a line, to let people know that this is part of being a Democrat."

"I don't think the club's future is dim when you look at what it's doing," said Martin. "It's just that most people are not interested in doing 'clubby' things like having smokers. They prefer getting involved in some sort of practical problems. They are seeking to change a lot of things, and many are already actively working for candidates before they join the club."

Martin feels that the club should concentrate on a "clearing-house type function, getting people with little or no previous experience involved in campaigns."

Chema, on the other hand, believes that the club should involve itself in a broader scope of activities, including purely social functions to induce an interchange of ideas. He would like to organize a social gathering this spring to attract new members.

But many factors are working

against the possibility of a more active club. Gebhart noted, "Clubs tend to fall into small groups of friends, and people find they would rather go elsewhere."

Also, with the proliferation of groups organizing around many issues, there are fewer people willing to rally to a party banner.

"Some people are pretty bitter," said Gebhart. "They've been working against the war since 1966. This is an age when frustration runs high for those interested in politics."

Thus, students tend to make commitments to individual candidates rather than to the party. Chema believes that it is important for the club to inspire a new faith in the Democratic Party as an institution, in order to insure the survival of the two-party system. "It's important that some people have loyalty to the party itself, regardless of the candidate, just as it's important that not everyone votes."

Martin compared the situation at Harvard with that in the nation as a whole. "It reflects what's happened to the Democratic Party. Most candidates who happen to be Democrats have no ideological ties to the National Committee. If the national party were some sort of united entity, they might have those ties, but it's not that. Maybe we wouldn't want it to be that."

For this reason, the group plans to continue to encourage individual participation in independent organizations such as the Moratorium and Referendum 70, while emphasizing the importance of work within the Democratic Party itself as a vehicle for change.

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Few Attend Governance Meeting

By Jerry Snow

Proposals for the establishment of a Commission on Responsiveness and a Law School Council were the subject of an open hearing called last Friday by the Committee on Governance.

Only a handful of students attended. An equal number of faculty were on hand.

The hearing came in the wake of three open meetings held by the Administrative Board seeking evidence of student sentiment concerning the recent black student disciplinary proceedings. The open meetings suffered from similar student disinterest. [See letter from Prof. Kaufman and James Bierman, 3L, on page 9.]

The Commission on Responsiveness, it was explained by Professor Chayes, Chairman of the Committee on Governance, would function as a kind of grievance committee.

To be composed of three students and three faculty members, it would have no actual decision-making power, but would receive and investigate complaints of an operational nature dealing with low-level bureaucratic decision-making. In addition, it could issue reports of its findings and intervene in appropriate ways to expedite the process of responsive decision-making.

The Law School Council, on the other hand, would consist of twelve to fifteen elected student representatives, five professors, one graduate student and one teaching fellow. It would oversee the selection of students to Law School committees, follow up on the work of the committees, and keep the community-at-large informed of committee progress.

The Council would also play a role in high-level policy decision-making. More often than not, Professor Chayes pointed out, issues

of policy of broad concern to the community tend to be raised too late and in the wrong way. The Council would try to anticipate and raise these issues in a systematic and orderly way, and could then issue a report thereon for mandatory consideration by the faculty.

The proposals are to be submitted to a referendum of the entire Law School, together with possible alternative proposals. However, the referendum will probably not take place until next fall, it was announced.

At the hearing, the proposals were criticized as being unnecessary on the one hand and inadequate on the other.

In the view of some, in an idealized community of shared values, persuasion should be the means of effecting change, rather than a squaring off into structured interest groups.

(Continued on Page 14)

Law School Names Visiting Faculty

By Greg Ward

Four legal educators and practicing lawyers have been named to the Harvard Law School faculty as visiting professors for 1970-71.

As previously reported in The RECORD, Leonard Boudin, nationally renowned defense attorney and authority on civil liberties and constitutional law, will become the third lawyer named as a "visiting professor from practice." Mr. Boudin is currently associated with the firm of Rabinowitz and Boudin in New York.

Boudin, who gained national recognition through his defense of Dr. Benjamin Spock and other civil liberties defendants, will teach Advanced Constitutional Litigation with Professors Charles Nesson and Alan Dershowitz.

Boudin received a B.S.S. from the City College of New York in 1933 and his LL.B. from St. John's University Law School in 1935.

Victor Brudney, a private litigator with extensive experience and professor of law at Rutgers University since 1965, will teach Corporations, Corporate Finance, and Securities Regulation. Brudney practiced with the Federal Government from 1940-46 and privately in New York from 1946-66. His New York practice was primarily corporate.

Brudney received his B.A. and M.A. from the City College of New York in 1937 and his LL.B. in 1940 from Columbia.

E. Allan Farnsworth, who also received his legal education at Columbia, will conduct Contracts and Commercial Transactions classes at the Law School next year. The author of several casebooks, Farnsworth joined the Columbia faculty as an assistant professor in 1954, and was named a professor of law in 1959.

Farnsworth received a B.S. in mathematics in 1948 from the University of Michigan, a M.A. in physics from Yale University in 1949, and a J.D. from Columbia in 1952.

Teaching Constitutional Law and Corporations, Jesse H. Choper graduated in 1957 from Wilkes College and received his LL.B. from the University of Pennsylvania Law School in 1960. Choper is now a professor at the University of California, Berkeley, Law School, having previously taught at the University of Minnesota and the Wharton School, University of Pennsylvania. He clerked for Chief Justice Earl Warren.

Choper is an editor of casebooks in Constitutional Law and on Constitutional Rights and Liberties, and, with Frey and Morris, of one on Corporations.

Urban Computer Games Study

By John York

When APEX — a computerized, urban-simulation game — was underway, one observer described the Law School setting as being like "the war room in 'Dr. Strangelove,' maybe a little more frantic." Students in Professor Charles M. Haar's Land-Use

vidual and joint — affected the workings of this environment. Like their "real-life" counterparts, each player found himself subject to constraints and opportunities just as in the outside world.

Time was compressed so that one four-hour decision cycle rep-

more familiar with gaming technique and the consequences of actions.

"We chose Duke's game because it is the most advanced," Haar said. "Secondly, it is based on a real city — Duke was involved in a federally-financed systems analysis of Lansing, Michigan — and thirdly, it has been the subject of every master's thesis written under Duke for the past several years. The game undergoes constant revision."

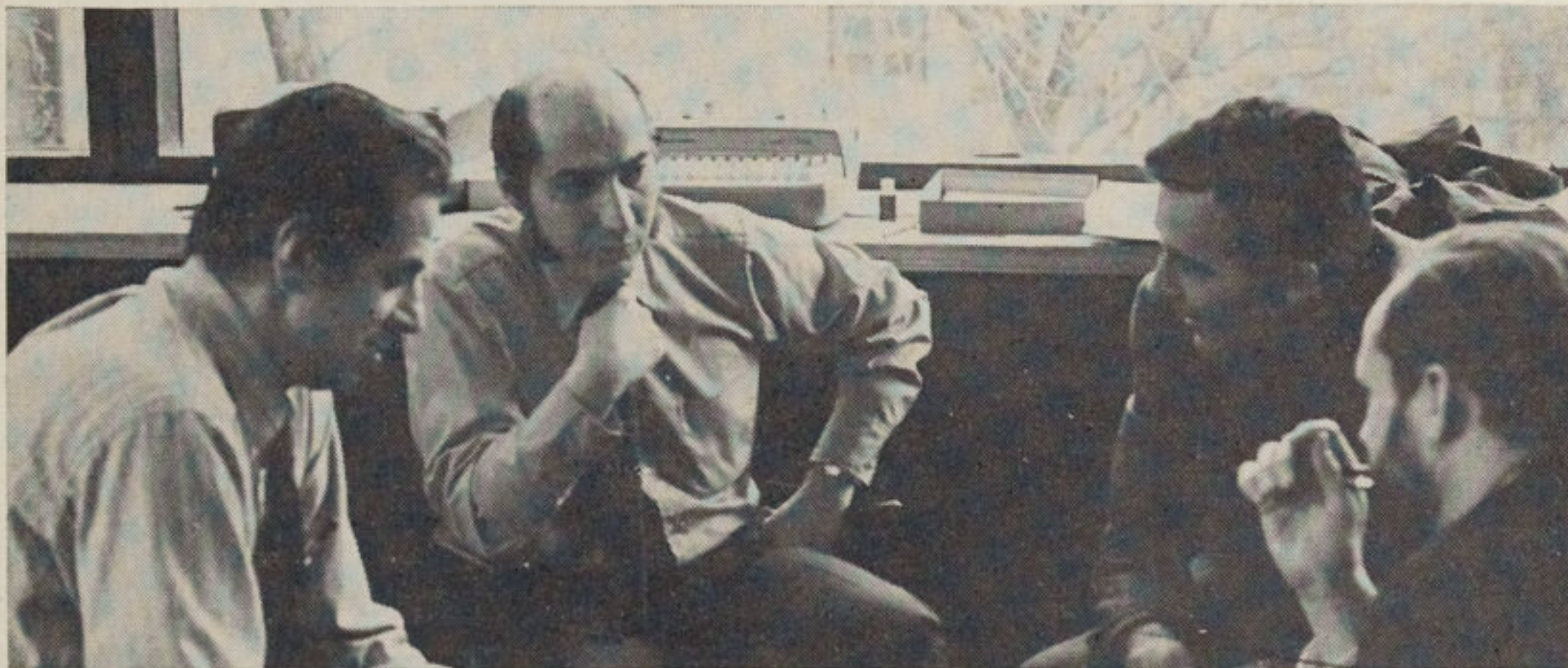
Haar sees the value of the game as primarily instructional. "It is a great pedagogical tool," he said, "but not necessarily a predictive device. However, if a systems model were made of Boston and Cambridge, over years perhaps we could get an idea of what results follow certain policies. If bad, then we wouldn't make those mistakes again."

As a teaching tool, Haar contrasted the game with the case method: "The case method is vicarious. One can read through the divorces of 20 families in one day. With the game one can live through one year at a time in the life of a city. Several years can be covered in a few days."

Because of the interest shown by the M.I.T. Department of Urban Planning as well as Harvard's Law School and School of Design, Prof. Duke consented to bring the game here for a concentrated weekend of playing.

"This is not the usual way the game is run," said Dan Degnan, a teaching fellow at the Law School. "In the normal situation it is brought to a site for several weeks to train people. It is costly. M.I.T. may put the game in there next year, and Harvard's schools of business, law, design and education may want to get involved. Currently, however, Harvard does not have the 1130 computer necessary for the game."

According to Haar, the best way to employ APEX as a teaching vehicle would be to run a few cycles of the game, then study pertinent cases, write briefs, ar-



John Haar

Professors Haar and Duke brief participants.

Planning course spent a recent weekend experiencing the contemporary teaching technique developed by Professor Richard Duke of the University of Michigan.

The game revolves around the growth and significant events which might occur in an urbanized county over a ten-year span, as these are shaped by player action or inaction as well as by external economic and political forces and trends.

From Friday through Sunday a cavernous function-room was frescoed with charts and maps. A specially-installed I.B.M. 1130 computer clicked in one corner. And groups of student-players clustered around seven large tables when they were not across the room wheeling and dealing with another group's members.

Each cluster was a nucleus for those playing the roles of politician (city or county), planner (city or regional), air pollution control officer, industrialist, or real estate developer.

The world in which the game players operated was largely simulated in the computer, although the activities of other role-players also shaped the environment. Players' decisions — indi-

resented one year of the simulated community's change. Players discovered immediately the probable consequences of their actions and could adjust their strategy for future action.

At the end of each "year-long" cycle, all decisions — role v. role and role v. environment — are entered on a series of forms which are then put on punch cards and fed into the computer. The print-outs emerge with what will be essentially each role's "environ-

Computer Spews Out The Next Year

ment" for the next year. For example, an industrialist received profit and loss statements. A newspaper — the 'APEX Gazette' — also spews forth from the computer at the beginning of each cycle, containing comments on the triumph or folly of earlier decisions as well as giving clues as to upcoming key issues.

Prof. Haar's interest in urban simulations was first manifest in 1964 when one of his classes played a rudimentary, uncomputerized game. Later, as HUD's Assistant Secretary for Metropolitan Development, Haar became

y Land Use Planners' Problems

gue them, then run a few more cycles on the basis of the learning and decisional outcomes which occurred in the interim.

The value of the APEX to Degnan is that "it brings the human element into interaction with systems analysis of a city."

Members of Duke's retinue were alert to player reactions. Dick McGinty and Charles Pratt, director and assistant director, respectively, of a research project at the University of Southern California, were distributing a questionnaire. As Pratt said, "We want to see what the game measures, what people learn from the game, its validity. Gaming is good and has a real future in teaching," he continued. "Students in a game situation: (1) develop a need to learn, (2) are given the materials that enable them to learn, (3) make decisions based on information, (4) look at the results of those decisions within the experimental community, (5) have to live with the decisions and outcomes of those decisions, and (6) have an opportunity to make new, corrective decisions in a situation where the only loss is to the pride of the player. From all this," Pratt concludes, "he gains insight into decision processes and their effect in a community."

According to Degnan, Prof. Duke and his staff were very pleased with the Harvard Law School players. Duke himself said, "Law students tend to play the game well. They are well-trained in being analytical and are well-reasoned in posture."

"I was struck by how seriously some took it," said Prof. Haar. "Each group developed its own rapport. It was 'them against the world, the developers against the council.' But there was also cooperation, people talking and reasoning together. There was an intensity of being involved, real excitement," he continued. "People stayed there until six in the evening. It is encouraging to a professor to instill that kind of voluntary craftsmanship."

Degnan was also impressed by the students' intense involvement. "The game was not moot," he said. "People reacted in real ways."

Professor William Doebele of the graduate School of Design at Harvard wondered, "If we played the game longer, would it evolve more toward a Utopian society? We could use the model, which tells us that things work in a certain way, to revise the model."

Duke mentioned that he was surprised that no one challenged the legality of some of the HUD grants.

Some Ask: Whither Utopia?

And one student playing the role of county commissioner said that since the game demonstrated the flaws of the present system of government, that the system and its processes were not challenged enough during the game.

For these reasons, perhaps, Doebele "thought that law students' comments were trivial, that they didn't see the Utopian possibilities inherent in the game." To which Prof. Haar replied, "maybe

in some schools the goal Utopian is something to move toward, in others it is something to move away from."

Several students recalled that earlier Doebele had urged using the game with architects because they "do not know how to deal with institutional clients."

"The reasons for building the game," Duke commented, "are the ones which Doebele suggested. The more one understands the system, the better he can understand how to change the world."

"Players often complain that they are forced by the corrupt system to corrupt themselves," Duke added. "But the system is not corrupt; they corrupt themselves."

Real estate developers quickly learned that zoning variances were more easily obtained from city and county politicians if a campaign contribution was forthcoming.

And, as one industrialist commented, "Air pollution control was strictly a cost comparison between three alternatives: (1) controlling pollution through equipment or fuel changes, (2) polluting and paying the fines, and (3) polluting

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John Haar

Student players cluster around one of the role tables to examine the 'APEX Gazette.'

Computer Game

(Continued from Page 5)

and controlling politicians so as to have minimal regulations or minimal fines. The last alternative seemed cheapest and a coalition was formed to control elections which proved effective."

Generally, students were enthusiastic about the APEX experience, yet they could not pinpoint precise reasons.

According to Pratt, "The players get satisfaction out of the game like the satisfaction in life — each sets his own goals and meets them. Once one is outside the academic community, goals are no longer set for you."

Air pollution control officers as well as the city and county planners praised the game for allowing opportunity for innovation. The former group drafted, passed, defended and administered a good air pollution control ordinance.

The latter, armed with several massive HUD grants from a munificent Prof. Duke, got underway a joint industrial/housing development which placed the assembly site of a tractor plant in the suburbs, with a housing development and loft-industry sub-assembly parts work in the inner city ghetto.

As Duke said, "Often after several cycles some have criticized the game, saying that no matter how much money we pour into that area, it stays just as bad." As one player said, the huge HUD grant showed us "the valuable possibilities of having free and untied money."

An industrialist saw the game's most valuable function as "revealing that much opposition to such obvious cures for society's ills as air pollution abatement is legitimate when the opponent's situation is considered. Self-righteous protests and demands may be unjust and unwise as well as ineffective and APEX induces comprehension of this fact."

Haar was particularly intrigued by the way in which participants got so enmeshed in their roles

that they saw nothing else but that viewpoint.

One real estate promoter claimed that "the role of developer was particularly beneficial to me (I made several million dollars) as the aggrandizement of monetary resources has always seemed a most alien and vacuous principle. I can today better understand the

frustration of real estate speculators with the planners who instinctively seek to wield power without coherent purpose."

Every other cycle was planned as an election year for the politicians, an experience not shared by the other players. "Thus," as one city politico remarked, "the sec-

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Ecology Symposium Scheduled

By Madeline Nesse

The application of law to environmental problems will be the topic of a symposium co-sponsored by the Law School Conservation Society and the Law School Forum, Wednesday, April 22 at 8:30 p.m. in the Ames Courtroom.

The program, a two-panel discussion, will be the focus of the Law School's participation in the nationwide teach-in on the environment planned for April 21 and 22. According to Scott Lang, chairman of the Conservation Society, the two-day drive will em-

phasize national efforts against environmental destruction.

Laurence H. Tribe, assistant professor, will speak with Benjamin Nason, executive director of the Conservation Law Foundation of Boston; Stephen Ells, deputy Commissioner of the Massachusetts Department of Natural Resources; and Jesse Kasewitz of the Massachusetts Lawyers' Guild on Wednesday evening.

Experts from non-legal fields will be Allan Morgan, executive Vice-President of the Massachusetts Audubon Society; Frederick Smith, professor of ecology at the

University; and David Smith of the General Electric Corporation's Environment Conservation Department.

University activities planned for the two days include a discussion Tuesday evening in Sanders Theater featuring Senator Edmund Muskie. George Wald, professor of biology; Theodore Levett, Business School professor; State Senator John Moakley and nationally-recognized ecologist Dr. Barry Commoner will also participate.

Plans for demonstrations at Government Center and Logan Airport and lectures at the Business School are being formulated.

New ABA Opinion Permits Lawyer Interviews

(Continued from Page 1)

The opinion grew out of an attempt by Mark Green, 3L, to interview a senior partner of a large Washington, D.C. law firm. Green, who conducted numerous similar interviews in Washington this summer as part of a project undertaken for Ralph Nader, is compiling the results of his studies for his third-year Law School writing requirement.

In a letter to the A.B.A.'s Standing Committee on Ethics and Professional Responsibility, Green argued that "intended or not, Canon 27 [and its restrictions

where it is not the lawyer but the researcher who will "prepare, cause to be prepared, use, or participate in the use of" the report, the lawyer and his firm may cooperate or assist the researcher in the preparation of the study.

The Committee, however, assumes that the report will not contain "professionally self-laudatory" statements, and suggests that the lawyer might impose "appropriate conditions" on the answering of specific questions, and of course avoid self-laudation in his own responses.

The question left open by the opinion is what course the lawyers in the firm may take to "correct misstatements of fact or respond to any attacks on their ethics or professional conduct which may be included in the study, either before or after the study is published." A majority

of the Committee was of the view that they "have the right to take precautionary steps to avoid misstatements of fact by imposing conditions upon the answering of specific inquiries and to correct in the proper manner any specific misstatements of fact which may be made by the researcher."

The majority felt that a opinion should be sought later if the lawyer proposed specific action to reply to any specific attacks or to seek correction of the study.

A minority of the Committee, however, took the further step of stating that the lawyer had not only the right, but the obligation to "keep the records straight . . . when statements are made that may be misleading." The only condition they would impose would be to require that the lawyer's response "must be dignified and not flamboyant."

Effect of Canon To 'Chill Inquiry'

on "Advertising, Direct or Indirect,"] had the effect of chilling public and media inquiry into the legal profession."

Rule DR 2-101, entitled "Publicity in General," provides, in relevant part: "A lawyer shall not prepare, cause to be prepared, use, or participate in the use of, any form of public communication that contains professionally self-laudatory statements calculated to attract lay clients. . . ."

The Committee on Ethics and Professional Responsibility, in its opinion, takes the position that

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Law and Order?

One wonders at the sincerity of our politicians' — especially our more conservative ones' — cries for "law and order" when their actions seem to subvert rather than support that principle.

Just this last week, the nation was once again treated to the spectacle of a southern governor proudly and intentionally defying a federal court order. Governor Claude Kirk of Florida not only defied the court himself, but also ordered state and county policemen to physically obstruct federal marshals attempting to make lawful arrests.

Under the threat of daily fines, Kirk finally ended his unlawful behavior, having presumably gotten the respect and admiration of the Florida voters for his act of defiance.

But where were the Justice Department and John Mitchell who were so quick to save the country from the Chicago 7, Dr. Spock, William Coffin, and others? Isn't a governor's public defiance of the nation's law and court system just as much if not more of a threat to "law and order" as are the demonstrations of radicals? Could it be that enforcement of "law and order" depends upon whom it is being enforced against?

Then, in addition to Kirk defying the law and getting away with it, we have had the sight of President Nixon, a strong "law and order" man himself, playing political football with the Supreme Court.

In a speech which was more than vaguely reminiscent of the "old" Richard Nixon, the President told the nation that a southern conservative could never be confirmed to the Supreme Court and that the South would thus never get proper representation on the Court.

Mr. Nixon misses the point. If he had appointed candidates as unworthy of the Court as Judges Haynsworth and Carswell from any other parts of the country, they also should have been disapproved.

Besides, where did Mr. Nixon get the notion that the Supreme Court is to be a representational body? There is no geographic requirement for the Supreme Court; the only requirement is worthiness and excellence, and these can be found in any part of the country, if the President is willing to seek those qualities.

If Mr. Nixon is really concerned with "law and order" let him end his spectacle of trying to place unworthy candidates before the Senate for political reasons. Let him name the best person for the job, from whatever part of the country he comes.

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Fenno

"Hey, Fenno, did you hear about Charlie Nesson's guest appearance on *Sesame Street* last week?" Bunky shouted as I tuned my glockenspiel in readiness for Bobby Braucher's Patriots Day party.

"No," I answered, "but wouldn't it be great if the rest of the faculty followed Roger Fisher's example and got their own TV shows?"

"Yeah, Fenno, super idea. The baseball season just started so *Richard Hinckley Field's Knothole Gang* could get started."

"What about a Western?" I posed.

"Clark Byse is coming back from the West," I suggested. "*The Minnesotan?* 'Fastest Draw in Langdell South Middle?'"

"Sure," Bunky opined. "And next time Johnny takes off for the night clubs, you'll hear Ed McMahon bellow 'Here's . . . Louie!' Jaffe, of course, will stride down through the audience. But someone'll have to make sure he remembers how to find the studio."

"Casner gets the wake-up show. Only he may not last long if he frightens viewers by trying to call on them," I suggested.

"*Dawson's Tavern* gets a 10:30 p.m. slot unless *Uncle Dave's* (Herwitz) *Business Puppets* get better ratings."

"What about *Stern Vern the Rifleman* costarring Yarmo the Wonder Boy?" I insinuated.

"Fenno, that couldn't even beat *The Celebrity Game* in the Neilsens. We need a good soap opera. Why, now that they let dames into Lincoln's Inn, they watch 'em all afternoon on the tube over there!"

"OK, OK. *The Kaufman Saga*, 'The Story of a Young Man's Continuing Search for Fame and Fortune Within the Confines of Article Nine.' We'll get Braucher and Sutherland to costar and Peter Coogan's penetrating gaze will get all the old biddies to watch."

"Fenno, how do we know what'll make it? You know, TV is a tough business. ABC never seems to gain on the other two networks. How will we do it?"

"Look, Bunky, the legal profession is smoothing up a lot. We can lick anybody. I'm trading *H. Thomas Austern's Commercial Festival* to NBC for *Kunstler's Kaydets* . . . And nobody's picked up *The Carswell-Thornberry Comedy Hour* yet . . .

Countryman Clarifies

'Faith' Statement

To the Editor:

Mr. Jerome Garchik in his letter in the RECORD of March 26 is the second person I know of to ascribe to me a declaration of faith in "the system." I would not and did not make such a fatuous statement.

It is not my practice to proclaim my faith in things I don't understand and I don't understand the meaning of "the system." What I said was that I still had faith in our legal system to correct, on appeal, what I regarded as erroneous convictions in Chicago — both the convictions under the Anti-Riot Act and the convictions of the lawyers for contempt.

Having that faith, I urged the students not to run the risk of a violent encounter at the Boston rally. Mr. Garchik is able to assert that all violence is "state produced" only by over-

looking such things as the Weathermen's idiotic foray in Chicago and the recent series of bombings.

There are, as I said on the occasion to which Mr. Garchik takes exception, mindless people on both sides. Although there are occasions when one may feel impelled to act despite the risks, this did not seem to me to be an occasion worth risking being caught between the Weatherman and the police. Some people were, in fact, injured at the demonstrations in Boston on February 19.

When I spoke I had before me a leaflet urging people to participate in that demonstration for two reasons: (1) to demand the release of the Chicago defendants and their lawyers and (2) to show that "we are not intimidated."

The first reason is obviously ridiculous and I will stand by what I said as to the second — some people are so damned busy showing that they are

not intimidated that they have no time for anything else. I still believe that those students who devoted the day to assisting Professor Dershowitz on the briefs on appeal for the Chicago lawyers made better use of their time.

Vern Countryman
Professor of Law

Bell Not

Always Burning

To the Editor:

I was interested to read of Derrick Bell's "emotional distress . . . impossible to endure" over the unwillingness of whites to do justice to blacks, which lead him to walk out of faculty meeting [RECORD, March 12]. Mr. Bell has not always burned with the same sense of impatience over racial injustice.

For eleven years there has been a pattern and practice of blatant and extreme discrimination against blacks in the Landscaping and Grounds Maintenance Unit of the National Institutes of Health. This is not just my own opinion as the ACLU attorney representing the black employees. The Department of HEW has made a finding to this effect, and the Civil Service Commission has accepted the finding.

The problem is that both HEW and CSC have taken the position that the law provides no remedy for racial discrimination in federal employment. Back pay has been denied, compensatory promotions have been denied, and the supervisors responsible for the discriminatory system remain in control.

As one HEW communication put it, the black employees, in proving that there is in fact racial discrimination on a wide scale, have won only a "hollow victory." See the Note, Racial Discrimination in the Federal Service, 38 George Washington Law Review 265 (1969), which uses this case as illustrative of the total ineffectiveness of the Federal Equal Employment Program.)

Just before Mr. Bell took office in 1966 as Deputy Special Assistant to the Secretary for Civil Rights and Deputy to the Director of HEW, I met him at a NAACP conference and told him about the NIH case, which was then seven years old. He expressed indignation (similar to that reported

Attendance at Meetings Is Miniscule

To the Editor:

In view of the interest expressed by the "Law School community" in disciplinary matters at the Law School, I should call your attention to a recent series of occurrences, or perhaps they were non-occurrences. A joint subcommittee of the Administrative Board and the Committee on Governance, composed of faculty and students, has been charged with examining the current disciplinary procedures of the School, including the composition of the disciplinary bodies and the "law" being applied by them.

The joint subcommittee hopes to issue a tentative report later this spring discussing the alternatives it is considering. This report would be made generally available and would serve as the basis for discussions leading to a final report next fall.

The first effort of this joint subcommittee was to schedule three open meetings for 1 p.m.

in the Mallory Smith Room of Harkness Commons on March 17, 20, and 23. The first of these meetings took place within three weeks of the conclusion of the recent disciplinary proceedings. Notices were posted and arrangements were made to have many professors read these notices to their classes on the meeting dates.

Aside from members of the Administrative Board and the Committee on Governance, attendance from the Law School community was 12, 6, and 4 at the three meetings respectively, and some of these were people who came to more than one meeting.

Various conclusions could be drawn, but the Law School community should at least be aware of the facts.

James N. Bierman, 3L
Andrew L. Kaufman,
Professor of Law

Co-chairmen, Joint Subcommittee on Disciplinary Procedures

(Continued on Page 10)

Long Ovations Greet Emotional Kunstler Address

(Continued from Page 1)
measured in dollar bills, or stock portfolios, or monuments, or Fourth of July speeches."

Instead Kunstler said he sought a world composed of "a lot of people who want a better kind of life for them and their brothers and sisters, where private property is not even a legal concept, and where there are no wars — legal or illegal."

Kunstler asserted that this movement, like all movements for change, is in direct conflict with the status quo. The Conspiracy attorney, who ironically once authored a corporate tax summary for the American Management Association stressed that the legal system preserves the status quo and sanctifies property.

"It is not designed to test fundamental issues, like wars in Vietnam," Kunstler complained.

Tracing legal history through Socrates, Christ, Dreyfuss, and Sacco-Vanzetti, Tom Moody, and German Jews, Kunstler argued that "courts play a fundamental oppressive role in human society, and today they're reaching a zenith," with the "game of death

being played out in New Haven," where nine Black Panthers are on trial for their lives.

But it is not merely the most visibly political groups who are mistreated by the courts, Kunstler claimed. "In my book, almost every trial involving a black man, a poor man, a student, a longhair, and all the other groups I mentioned, is a political trial."

Urging his audience to support the Panthers, Kunstler concluded, "Together we cannot be destroyed. Singly, or in small groups, the gas chambers await."

Preceding the lawyer was one of the Chicago defendants, John

Froines, a Yale Chemistry Ph.D., who spoke about the Chicago trial and ended by emphasizing that the case of the Black Panthers is far more significant, and deserves far more support, than ours."

Kunstler and Froines are both out on bail pending their appeal. Froines stressed that it was not the "liberalism" of the Seventh Circuit which had allowed the attorneys and defendants temporary freedom on bail.

"As far as I'm concerned, the reason I'm here is the TDA rally," Froines stated, referring to the nation-wide demonstrations

(Continued on Page 13)

Letters . . .

(Continued from Page 9)

in the LAW RECORD) and enthusiastic determination to see that justice be done.

But after Mr. Bell took office, he did nothing. Although he had the power to take an active part in the case, he turned it over entirely to a white bureaucrat who did nothing to expedite the proceedings and who defended the NIH actions. Mr. Bell did not insist on justice for the black employees. He did not resign in protest. He did not respond to any one of numerous phone calls about the case. He did not even walk out of an HEW meeting.

Ah, well. As you say, he is "with it" man. And this year, happily, militancy is, as they say, where it's at.

And thus opportunism does make heroes of us all.

Monroe H. Freedman, '54
Professor of Law
George Washington University

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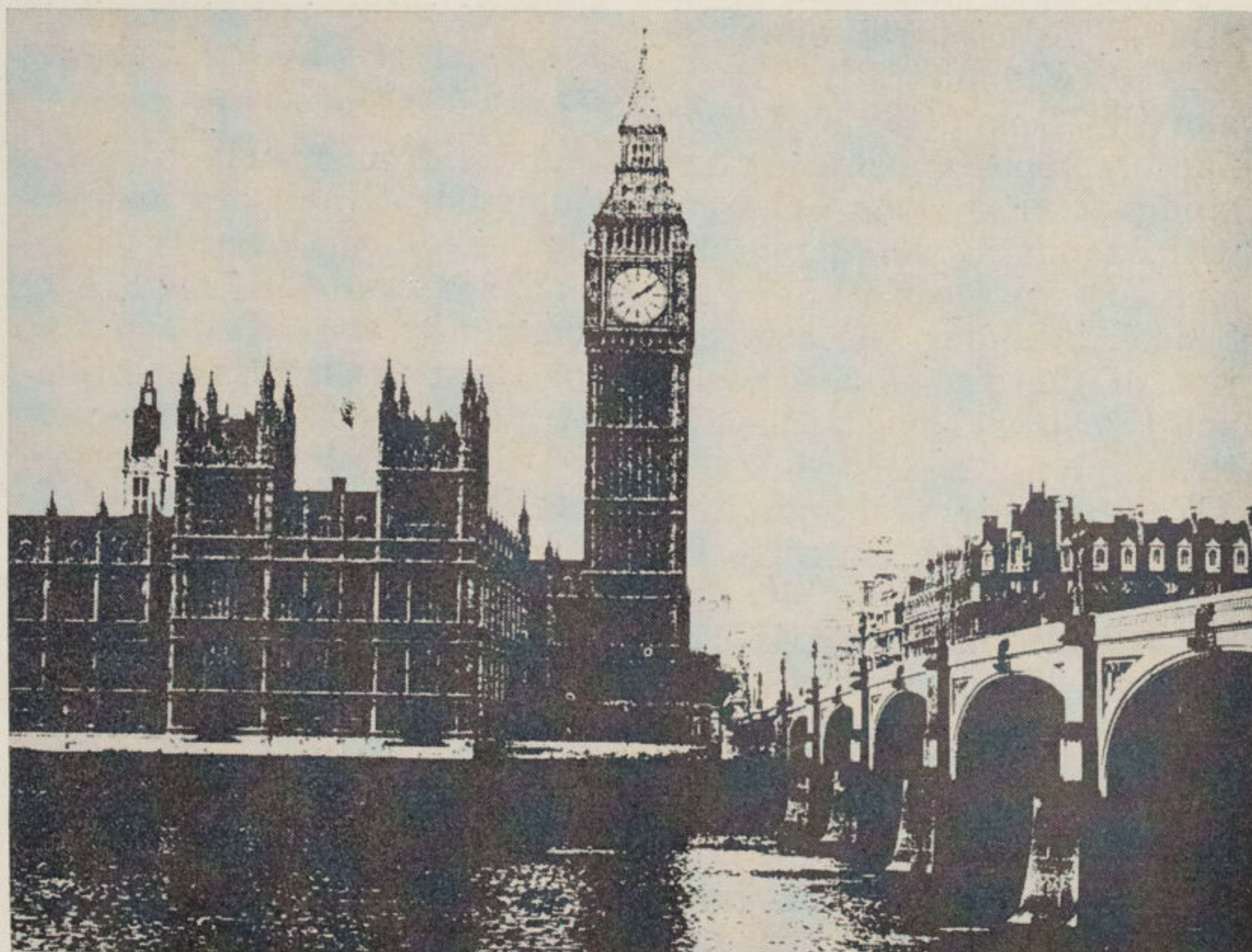
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Spiro Skips Softball Opener

By Michelle Scott

Exactly one week ago, on the first day of the post-Carswell era, 1L Section IV Softball League held its Opening Day on the Cambridge Commons ballfield.

Although less publicized than some of the season's other opening day games, the league's debut was long anticipated. For about two weeks. From the moment Mel Wald, self-appointed *basso profundo* organizer, stepped to the Austin East podium and issued a rousing call to bats and balls.

"I suppose people in the section know that spring has arrived," Mel intoned. "Spring is many things to many people. Spring is the chirping of a bird, the babbling of a brook, the babbling of a classmate. Spring is an elephant in heat. But for some of us spring is just one thing. Spring is softball."

And with a deep bow and flourish of an HLS-crested crimson cap, Mel announced the league's formation.

"Everyone is invited to play," Mel continued. "And we're hoping to get out some of the real oldtimers like Pee-Wee Dershowitz, and the man whose hands are so sure that he's referred to by his teammates as Mr. No-Fault himself, Big Bobby Keeton."

"We hope to see Marvelous Mel (Eisenberg) down at first base. And Charlie the Hawk (Nesson) will be playing right field. Or is it left field? Well, anyway, Charlie will be playing the field. And as a special treat

we're hoping to get out the iron man himself, the man who made all the rules, Dick Field.

"We had hoped to get Vice President Agnew at the ballpark to throw out the first ball," Mel reported, "but he had to be in the Senate in case his vote was needed to break a tie on the proposal to reinstitute slavery. We hunted around for a substitute and Mr. Ebner (Young Republican par excellence) has graciously volunteered in his place."

When Opening Day rolled around, Charlie Nesson took the field with over 40 Section IV enthusiasts of various skills, shapes and sexes.

Neither the lack of mitts nor the drenching downpour which began in the fourth inning and lasted through the bottom of the ninth lessened the competitive spirit between the teams headed by Wald and Jonathan Souweine.

Jonathan Marks hit the first home run of the day for the Wald team. Pro candidate Richie Sandler belted one into center field for the Souweine forces. The final Wald team homer by Clark McFadden landed in the general vicinity of Porter Square. Harold Stahler hit the game's only triple and Mel Wald claimed he pitched the contest's only strikeout.

The real star of the afternoon was Judy Wilcox who slammed a hard single through the Wald defenses in her first at-bat. In her second time at the plate, Judy hit a fast liner

back to the mound, forcing pitcher Mel Wald out of the game with a swollen thumb.

Paul Hannah was called in to relieve Wald. After three innings he was pulled by force of the moral condemnation of the community. He was jeered and hissed from the mound after unchivalrously catching a fly off the bat of Michelle Scott.

Souweine started and was relieved by Jerry Neugarten. Both proved steady moundsmen. Justin Simon and Terry Birkel starred in defense. Charlie Nesson provided the game's highlight when he fell, slid, rolled and somersaulted into home plate beating out a long throw from right field.

In view of the current widespread dissatisfaction with judges, the teams eschewed umpires. The final score, Mel claims, was 9-7, for his team.

Law Notes

Terry Falk Lenzner '64 spoke to the Voluntary Defenders Tuesday night. Currently director of the OEO Office of Legal Services, Lenzner was formerly an attorney in the Justice Department's Civil Rights Division and in the U.S. Attorney's Office, Southern District of New York. A Harvard College alumnus, he is a candidate for the University Board of Overseers this month.

* * *

At the Annual Stockholders' meeting of the Harvard Trust Company held last week, Louis Loss, William Nelson Cromwell Professor of Law at the Law School, was elected a member of the Board of Directors.

* * *

Earth people will celebrate a Festival of Light this weekend on the overpass between Memorial Hall, the Yard and Littauer. The festival will start with a big Eat-In on Saturday at 12:30 p.m. and will continue through Sunday. Rock music, dance, theatre, light shows, free food and clothing stores, plastic air houses, teepees, Mongolian yurts, good ideas and good vibrations will all be in attendance.

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Law Review Establishes Fund for Law Research

By Rick Vogel

On March 20 the *Harvard Law Review* announced that, subject to approval by its trustees, it will donate \$3500 to the Law School to establish a fund to finance empirical research by law students during the coming school year.

Although specific details of the fund's administration are still undetermined, the *Review's* editors contemplate that it will be administered by a committee of students and faculty chosen by the Law School administration. They hope that the fund will draw resources from other areas so that it can finance as many projects as possible and, if successful, continue beyond its period of initial funding.

Individual students or groups of students at the Law School can qualify to have their project expenses financed by the funds, although members of the *Review* will not be able to participate as either recipients or administrators.

There are practically no limitations on the type of research project which can qualify for grants; it need only be original and have some legal relevance. The student has total discretion and flexibility to develop his topic and determine his analytical framework. The project may be conceptual or statistical in nature.

The fund is intended to cover student traveling and research expenses which might otherwise prevent the student or groups of students from pursuing their research. Such research can be toward a third year paper for credit or any other con-credit endeavor which may or may not result in actual publication.

The *Review's* contribution of this fund would set a national precedent, remarkable because of the *Review's* own unpredictable profitability. Although subscriptions are relatively stable and prices are fixed a year in advance, operation costs are not always sufficiently anticipated prior to publication, lending to occasional losses. Such unpredictability has led to investment of any profits to cover possible future losses.

The idea of an alternate use for part of the profits developed among the editors of the last two volumes. After consideration of other scholarship proposals, the idea of a fund for research projects received the most favorable response. It was approved by the editors and now awaits almost certain approval by the trustees.

The \$3500 contribution would be a substantial commitment — about thirty-five percent of the *Review's* overall profits for the last four years or about fifty percent of their income from investment sources. But the editors feel confident enough about the *Review's* future financial prospect to pursue the project.

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Winthrop House Five Tops Law School Cage Team

By Richard Hoffman

For eight Harvard law students, it was a rare experience, something that isn't supposed to happen to Harvard law students: they were "taken."

Scene of the crime was the fourth-floor "championship" basketball court in the Indoor Athletic Building. Time was 9 p.m. on March 25.

Lest one misunderstand, the law men lost the University intramural championship game, 78-56, to a good team, from Winthrop House, a team which undeniably outplayed the legal all-stars, who were recruited from several Law School "A" League aggregations.

But—and isn't that what sports is all about?—the sad story cannot end with those bare facts. For the events of March 25 go to the heart of the way athletics are run at Harvard University: by true amateurs, or as they are known in pool halls, small-timers.

The legal eagles were participating in a tournament which pitted teams representing the Business School, the Graduate School and the lawyers against the undergraduate titleholders,

Winthrop House. All of the graduate teams contain players who were varsity starters before they came here. They know how the game is played.

The "head official," that is, the man who secures the game officials and makes arrangements for the tournament, was a member of the Winthrop team. For this game, the University championship, he obtained two novice officials, both members of Winthrop House. Neither had ever worked a game before.

I was asked to serve as scorekeeper. Just because I am a law student, this did not make everything even. I did not have a whistle around my neck.

Winthrop's club was hot in the first half. The law all-stars, who'd defeated the Business School the night before, weren't hitting from the floor. They steadily fell further behind to trail by as much as 30 points.

Fireworks began to erupt early. Near-total ineptitude on the part of the referees—such as failure to understand just what constitutes a foul—led the Law School team to grumble about calls. When the calls got worse, the complaints grew louder and the officials slapped

technicals on the team and threw one starter out of the game.

In the second half, the Law School began to reduce the margin, with Russ Hamilton, 3L, leading the charge. But the spread was too wide and the players too disheartened.

On the Law School's all-star aggregation were Hamilton, Gordon Gee, Steve Leonard, Rich Peters, John Runnells and Guy Blynn, all 3Ls; John Willis, Rich Lyons and Bob Rawson, 2Ls; and Bruce Fein, 1L. Paul Lambert, 3L, and Bill Wolford, 2L, played in the semifinal contest.

The Nameless Ones won the Law School championship playoffs, besting the Graduate School entry, 69-64. Third place went to the Sharks, who conquered the Sh-its, 63-59. In other action, the E League titlists, the Prurient Interests defeated the Crush-proof Pack, which had led the D League.

Kunstler . . .

(Continued from Page 10)

against the trial court's penalty and denial of bail.

Even more would happen with the Panther trial in New Haven, Froines said. He predicted that "before Bobby Seale goes to the electric chair he's going to be busted out of jail."

Seale, Chairman of the Black Panther Party, is one of nine Panthers on trial in New Haven for murder and conspiracy. The maximum penalty could be death. The Panthers claim that the charges are framed and that the government is implementing a nationwide attempt to exterminate the Panthers.

While the conspiracy defendants were allowed to be together in jail, Seale and the eight other New Haven Panthers are spread all over the state. All of this meant, Froines concluded, that "There is nothing more important that we can do than support the Panthers in New York or Connecticut."

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Few At Committee Meeting

(Continued from Page 3)

Others countered that this was an unrealistic appraisal of the Law School and that nothing short of a concession of formal voting power to students on policy making bodies would suffice.

Both of the proposed new bodies were criticized for a lack of real power, and for being limited to discussing issues and submitting reports.

Members of the Committee on Governance defended the proposal. The Commission on Responsiveness would command influence by virtue of its moral authority in the handling of complaints. By the same token, the Law School Council would exercise considerable influence and its recommendations and reports would bear great weight with the faculty.

The role of the Council in the selection of students to serve on Law School committees was discussed. The charge was made that the committee system was unrepresentative and unproductive. Appointing a few students to com-

mittees was characterized as simply a way of lending an aura of legitimacy to faculty decisions.

It is on the committee level, however, that the real work of the Law School is accomplished, according to several faculty members.

Whereas the faculty may be the ultimate symbol of power at the Law School, in almost all cases it bows to the recommendations of its committees. Moreover, without the formal commitment to committee work, student interest in the day to day administration

of the Law School would be hard to sustain.

Whatever the drawbacks of the committee system, it was suggested that only through participation on committees would students be able to effectively participate in decision-making at the Law School.

The demand for student representation in the faculty meeting should be granted, in the view of one faculty member, "if they are willing to do the work." This is the ultimate goal, anyway. But this same speaker also felt that this would only eventually come about through student roles on committees.

Law Clinic Plan Submitted

(Continued from Page 1)

concede that despite their well-prepared proposal, they expect the "clinical" organizations, such as CLAO, the Voluntary Defenders and the Legal Aid Bureau to have an easier time convincing the faculty to grant the credit.

For one thing, the clinical groups already have staff attorneys available within their organizational structure to provide the stricter sort of supervision which the faculty can be expected to demand.

But at the same time, the faculty could be less receptive to the clinical groups because these organizations have flourished at the Law School for the last few years — without being able to offer members or future prospects the lure of credit. Indeed, one of the civil rights unit's points is that granting of credit would enable it to acquire a more stable structure, which the clinical groups already possess.

Last Thursday a meeting was held with Professor Sander for the purpose of airing student opinions on the issue. The discussion occurred but attendance was disappointing. Should Professor Sander's committee find any of the plans acceptable, the recommendation would then be forwarded to the Continuing Committee on Legal Education, headed by the Associate Dean, Professor Albert M. Sacks.

Student DAs to Meet

The Harvard Student District Attorneys will hold a meeting next Wednesday at 4 p.m. in the New Classroom of the Faculty Office Building for 1Ls and 2Ls interested in learning about the group.

Applications are available now at the office of the group's adviser, Professor Livingston Hall. The organization's program includes court trials by 3L members, who can appear for the Commonwealth in local district courts.

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Urban Computer Game . . .

(Continued from Page 6)

ond cycle was largely consumed by campaigning and soliciting contributions." When someone complained that constant elections dampened long-range planning, Duke replied, "In real life city politicians have a short-range perspective because of constantly being up for re-election. German officials stay in office almost for life; they can plan farther ahead."

Frequent elections also left incumbents with power. When several challengers defeated former county commissioners, the new men were at a disadvantage because only the old hands left on the commission knew the ropes.

As Prof. Haar observed, "The guy who filled out the budget got re-elected. He was continually doing 'favors' and making friends — and he even abstained from the crucial vote on the controversial air pollution controls!"

Prof. Duke said that in designing the game he had been more interested in interrelationships between the model roles than he

had been in making each model accurately predictive.

This philosophy worked well either for internally complex roles or for those having contact with a large number of other roles. The air pollution control officer role was a inherently complex and satisfying one, according to one player. Yet it interacted chiefly with only industrialists and the county politicians.

County politicians had an extensive web of ties with all roles except city politicians and planners. As one of its number claimed, the role was a key one in maintaining an overview of the game."

On the other hand, city people had nothing to do with air pollution, county politics, or industrialists. But they had to undertake a massive amount of financial planning.

Industrialists and developers had the most criticism of their roles as being too one-dimensional and constricted. Ideally, because of role differentiation, a player

would have an opportunity to sample several roles over the course of the game.

McGinty explained that the air pollution control officers and industrialists can be left out and the game played as a basis finance and planning game. "This stems from the origin of the game. When the National Air Pollution Control Administration funded a project to train future air pollution control officers, rather than do just this, we put it in the perspective of a full city. Duke's group came in and provided the framework, based on his simpler METRO game."

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