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Survey Shows Student Desire For More Clinical Programs

By Daniel M. Taubman

Ninety per cent of first- and second-year students who responded to the questionnaire on clinical legal education supported some form of clinical program, but only 212 of a possible 1100 students responded to the survey.

The survey, sponsored by the faculty-student Committee on Clinical Legal Education, was designed to elicit student opinions on clinical legal education opportunities for next year.

Of the 212 who returned the questionnaire, 129 were 1Ls and 83 2Ls. Only 21, or 9.9 per cent of the total, indicated they were "not interested in any clinical work."

Thirty-four percent (72 students) responded that they intended to register for either *The Lawyering Process* or *Criminal Trial Advocacy*, clinical courses presently taught by Visiting Pro-

fessor Gary Bellow, for 1972-73. Fifty-one (24.1%) said they did not intend to register for the course, while 88 (41.5%) answered "not sure."

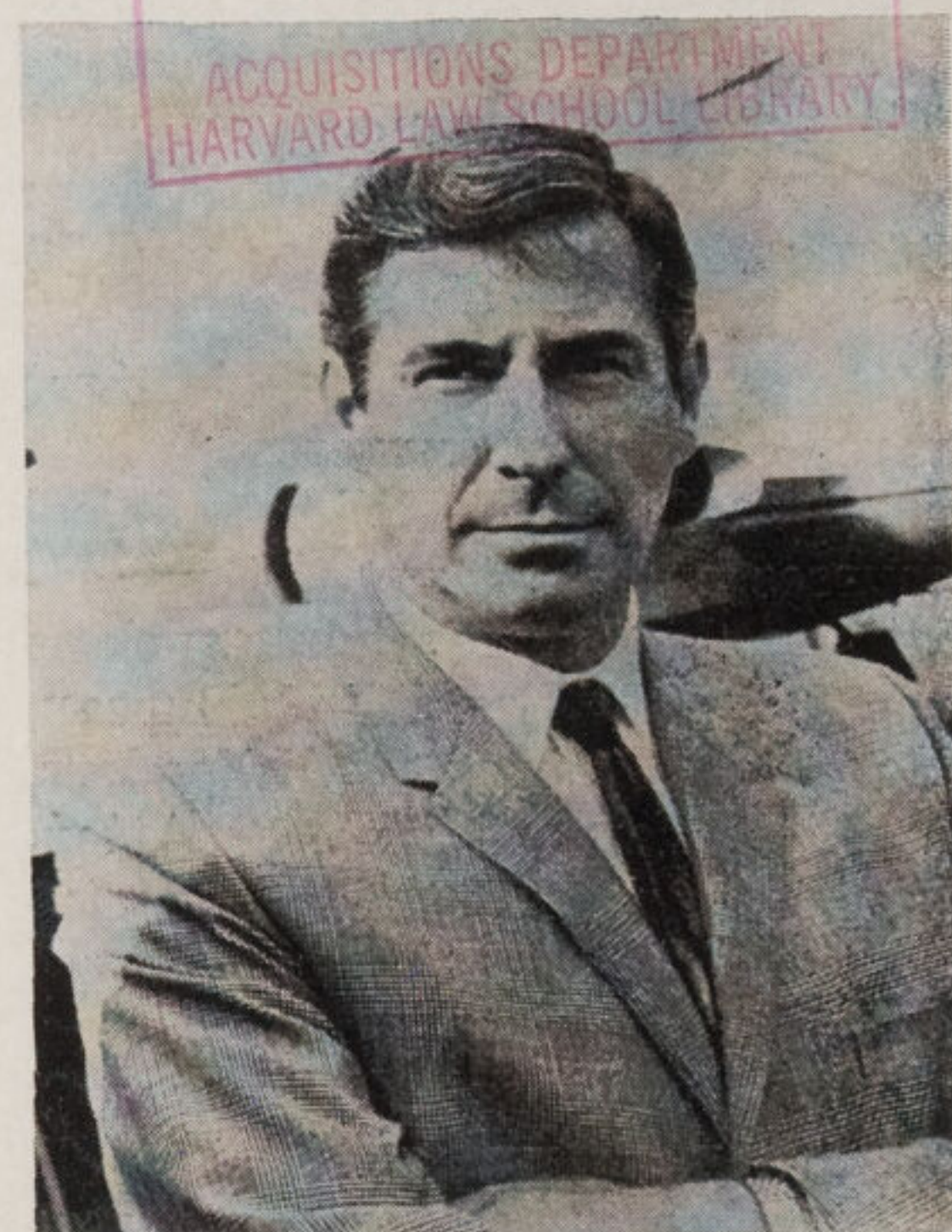
Only 15.1% of those who answered no or "not sure" to their plans for taking Bellow's courses next year indicated they would definitely opt for the course if it were changed to seven regular classroom credits plus one writing credit. The course currently consists of three classroom credits, four field-work credits, and one or two writing credits.

The single alternative which drew the most support was clinical work in a private law firm. One hundred thirty-one, 61.8% of the total, indicated interest in this option.

Generally, students favored credit over noncredit alternatives. Outside placement with credit was the second most popular alternative, preferred by 100, or 47.2% of the total. Outside placement without credit was favored by only 37 (17.5%) of those responding.

The so-called Gross proposal — first formulated by Richard A. Gross, 2L, and calling for the establishment of a new office in Cambridge or a nearby community financed by Harvard — was next in popularity. Ninety-five students (44.8%) favored this proposed clinical program.

Outside government placement
(Continued on Page 2)



Senator Mike Gravel (D-Alaska) addressed a small Forum audience last Friday.

Gravel Shows Up; Otherwise Evening Dull for Diehards

By Richard J. McManus

Most of his Law School Forum audience had disappeared by the time U. S. Senator Mike Gravel showed up last Friday night to deliver a planned address. Only thirty or so diehards, half of them members of the Forum staff, remained in the Ames Courtroom at 9:15 when he arrived more than one hour late "with his tail between his legs," according to Forum president Bob McGaw, 3L.

Those who stayed weren't exactly rewarded for their wait, either. The first-term Alaskan Democrat spoke for two minutes and then asked if there were any questions. At first there weren't.
(Continued on Page 12)

RECORD POLL

The next issue of the RECORD will come out on Thursday, February 17. The RECORD will on the same date conduct a presidential preference poll among all HLS students.

Students should vote at the RECORD desk in Harkness between 8:45 and 3:15 p.m.

Clinical Program Survey

(Continued from Page 1)

with credit was close behind, preferred by 88 students (41.5%), while the same proposal without credit was favored by only 33 (15.6%). Seventy-five students (35.4%) expressed interest in a full semester of clinical work with full-time casework.

In answer to a question indicating intent to work for volunteer client service organizations next year, 96 (45.3%) answered yes; 36 (17%) responded no; and 73 (34.4%) were "not sure."

Students, ranking their first three choices, expressed most support for the Bellow clinical courses and least support for existing volunteer programs such as the Harvard Legal Aid Bureau, Harvard Voluntary Defenders, and the Harvard District Attorney Project. A total of 76 students listed Bellow's courses among their first three choices, while only 15 ranked the present volunteer programs. Of the 15, only two ranked existing programs as their first choice.

First choices were widely distributed with no single alternative predominating. Forty-two, or 19.8% of the total, elected the Bellow courses first, followed by 39 (18.4%) for a clinical semester, 23 (10.8%) for the private firm clinical work, 15 (7.8%) for government agency work, 14 (6.6%) for the Gross proposal, and 10 (4.7%) for the outside service agency. Forty-seven (22.2%) of the total 212 gave no response to this question.

The survey elicited comments ranging from enthusiastic support for clinical education to one favoring complete abolition.

"Clinical legal education in a variety of forms is a must," one first-year student said. "The more opportunities the better."

Another countered that "clinical work is unfair to the client who deserves a lawyer that has passed the bar. The Law School should concentrate on training lawyers in the laws so that they will be better able to function

when they are practicing. . . . The University owes it to the Bar and the citizens to abolish this program."

Still another reflected uncertainty among 1Ls: "The problem with this survey, as with the movement for expanded clinical opportunities in general, is the lack of knowledge that 1Ls have on the subject."

Professor Detlev F. Vagts, a member of the student-faculty committee and the man responsible for the tabulation of the questionnaire, noted Tuesday that a number of student comments in-

dicated confusion with the questionnaire.

Vagts predicted there would be a "pretty good clinical opportunity for all those who want it. He said he thought there would likely be "some extension of the Bellow program" and increased outside opportunities with the Law School serving as a clearing house.

"My general assessment indicates there is a strong interest in clinical education that goes in a number of different directions and that what is needed and what we're working on is the development of a wide range of choices," Vagts explained.

Comments Show Diverse Views

Additional comments on the clinical legal education survey included the following samples.

"The Law School first year is so devoid of connection with the outside world that I have difficulty even answering these questions. The implications are obvious."

"I am strongly opposed to the expansion of clinical legal education programs. Interested students may gain such experience in summer employment."

"I am currently taking (Professor Gary) Bellow's civil course [*The Lawyering Process*] and the Nesson-Rosenberg civil liberties seminar and working for CLRD [Committee for Legal Research on the Draft]. The regular law school classes are infinitely inferior in educational values, experience, excitement, and existential satisfaction."

"One can get all the clinical experience he wants after graduation from law school . . . I think many advocates of clinical education are really looking for the Law School to subsidize their own personal commitment to provide legal charity for the poor."

"Although I recognize the need

for a certain amount of classroom time I think the mix should be one half to two thirds clinical . . . I feel it hard to believe . . . a lawyer can hang out a shingle before having done any lawyering at all."

"As I remain unsure of my future commitment to the legal profession, courses with more traditional academic contact are suited to my needs. I do feel strongly that any and all clinical opportunities are desirable for those that have a firmer grasp of their direction."

"Isn't the issue clearly one of whether Harvard Law School is committed to excellence and whether or not the school is committed to this goal not just for those of its students who are preparing for rich clients, but for those who seek to represent the poor as well?"

"I would expect you would get a very low return on the questionnaire. The Law School will say, 'Look, no interest in clinical education.' I think the reasons are a cynicism and indifference to the faculty's willingness to even consider such proposals."

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Democrats Revived, Focus on Reform

By David Cocke

At its annual election meeting last week the Law-Graduate School Democratic Club announced its involvement in an effort to enforce reforms in the party's primary process. Frank Martin, 3L, a former officer in the club, explained that he was recruiting students interested in working on a project to implement the recent McGovern Committee reforms in party structure and participation.

Martin explained that four or five law students have been working with the Center for Political Reform, a Washington-based legal action group, in an effort to help state party groups comply with the McGovern Rules. Resistance to the changes in primary delegate selection and voting, made mandatory at the 1968 Convention, has come from party regulars, unchanged party rules and state laws. "In instances where state laws are involved, a lot of resistance has come from Republicans who have sought to take advantage of the situation," said Martin.

The Center, headed by Director Ken Bode, has been working with a task force of the Americans for Democratic Action. A panel com-

Michigan Procedure Challenged in Court

posed of members of these two groups, as well as political lawyers from throughout the country, is putting together a program designed to enforce the McGovern rules in states from New York to California.

One of their first efforts was aimed at the convention itself—a lawsuit challenging the apportionment of the primary delegates. In *Bode v. National Democratic Party*, the group sought to bring about changes in the primary election procedure that would have given greater voting weight to larger states. The suit

was brought last June in District Court with an eventual judgment for the Democratic Party. The Supreme Court denied *certiorari* in December.

This defeat has not slowed the efforts of the Center or its law student supporters. Dave Fishback, 2L, and Joseph Gebhardt, '71, general counsel for the Center, have been working on a suit in Michigan, challenging flagrant violations of the McGovern Rules. Fishback reports that the last public participation in the selection of primary delegates for that state was in 1970. Candidates for delegate have to be chosen by a complicated write-in procedure that is in complete control by party regulars. The suit against this procedure focused on Constitutional issues concerning the rights of new voters to be involved in the election process. New voters included those enfranchised by the 26th Amendment and those recently entering the state.

No final judgment has been reached in the suit but publicity from the confrontation has created an entirely new political climate in Michigan concerning reform. "Republican and Democratic legislators are falling over each other in an effort to change the primary laws," said Fishback. "The Republican proposal is actually better than the Democratic one. From our friends in Michigan we hear that one of the bills is certain to pass."

Action is also brewing in California where the election law provides for a "winner-take-all" primary. "This means that someone with 25% of the vote could walk away with all of California's 290 delegate votes," said Martin. A suit is being considered which would substitute a proportional representation alternative. Such a suit might not have to be heard before the June 6th primary since the same popular vote could be used for both delegate selection procedures.

In New York a ruling is being

sought to allow delegate candidates to state their presidential preferences on the ballot. In Tennessee and Indiana efforts may be made to force greater coordination between the delegate selection process and the binding preferential primary. In these two states delegates might be chosen who were hostile to the candidate who won the primary battle.

"We expect these election reforms to be important," said Fishback. "It is very likely that the nominee will not be named on

Students Advance McGovern Rules

the first ballot, and the work we are doing might just make the difference."

Meanwhile, the Center and its participants are trying to maintain an impartial position with respect to the various candidates. Both Martin and Fishback have stated that they do not intend to campaign in the primary elections. This same position will probably also be taken by the Democratic Club, according to Martin.

"I expect this meeting to give the club a running start for next year," said Martin after last week's election. But he did not expect the club to endorse a candidate before the national convention, as did the same organization four years ago. In 1968 the Law-Graduate School Democratic Club gave an overwhelming endorsement to Gene McCarthy before the New Hampshire primary but split openly when Bobby Kennedy entered the race.

Besides participation in the election procedure reform movement the club announced no other specific goals except possible sponsorship of speakers during the spring term. "The club's real effort will be getting people involved in the 1972 election," said Martin.

Library Displays Coke, Death Penalty

By Paul Weiner

The Law School library is now presenting two exhibits: one on Sir Edward Coke (1552-1634) in the Treasure Room and another, on the movement to abolish capital punishment, in the main reading room and in the corridors linking Langdell with the Faculty Office Building.

Coke (pronounced "Cook") has gone down in history as the most famous champion of the common

Coke Fought Royal Prerogative for years

law in its struggles with the courts of equity, Parliament, and the royal prerogative. Yet during the earlier part of his career he served as attorney general to strengthen those bulwarks of the royal prerogative which he would later attack.

The Treasure Room exhibit traces Coke's life from his early days in private practice (he was of counsel in *Shelley's Case*), through his years as attorney general and his terms as chief justice first of Common Pleas and later of King's Bench.

Because Coke refused to stay proceedings at the King's prerogative (*The Case of the Comendams*) and conducted a running battle of writs with the courts of equity (culminating in an indictment for *praemunire* directed at the losing parties in *Courtney v. Glanvil and Allen* who had obtained an injunction against the enforcement of the common law judgment), King James I removed him from office in 1616.

This defeat did not prevent Coke from serving for many years thereafter in Parliament, fighting the royal prerogative on another front.

Most of Coke's cases are represented by contemporary printed

or manuscript reports drawn from the library's extensive collections.

Coke's career as judge and advocate would alone have assured him a prominent place in legal history, but he was also an outstanding reporter and treatise writer. Coke's *Institutes* formed the first complete treatise on English law since Bracton's in the thirteenth century.

As Professor Samuel E. Thorne has pointed out, "Edward Coke never crossed the Channel, to say nothing of the ocean, but a partial set of his *Reports* travelled over on the Mayflower and until well into the nineteenth century *Coke on Littleton* was a book every lawyer knew . . . more American than English law can be traced back to his books and no further."

(*Coke on Littleton*, or Coke's *First Institute*, was a commentary on a commentary on real property. The library displays a copy of the 1628 first edition.)

Miss Edith G. Henderson, curator of the Treasure Room, prepared the exhibit on Coke.

Up to the eighteenth century, capital punishment in one form or another was an accepted element of the common law of Eng-

Coke Was of Counsel In Shelley's Case

land, and of the law of almost every other country. Today, the death penalty in times of peace has been abolished in most developed countries; the Supreme Court will shortly have an opportunity to decide whether the United States will join this majority.

To provide some historical perspective on this current controversy, Jan Stepan, reference librarian, has prepared an exhibit tracing the history of the movement to abolish capital punish-

ment.

This campaign was started by Cesare di Beccaria's *On Crimes and Punishment*, an original 1765 edition of which is on display in the corridor adjoining the first floor of Langdell.

After delving into the origins and philosophy of the movement, the exhibit continues on the second floor with a documentary history of the abolition campaign in Great Britain, which achieved its goal in 1965, as well as a series of books and pamphlets on countries throughout the world which have abolished this ultimate penalty.

The exhibit continues in the library's main reading room, which displays a number of books and other publications calling for an end to the death penalty in the

Is Capital Punishment Cruel and Unusual?

United States, and ends with a case entitled "Cruel and Unusual Punishment?" containing briefs and opinions of the Supreme Court on the capital punishment question.

"An Account of the Digging Up of the Quarters of William Stayley, Lately Executed for High Treason," which greets you on your left as you enter the reading room through the main entrance, reminds us that in 1678 the burning question was not whether a felon should be executed, but how. Stayley was hung by the neck, but cut down while still alive, his body torn into four parts, and his bowels burnt.

But because he "behaved himself very penitently" between conviction and execution, he was spared the ultimate indignity of having his remains displayed on the gates of the City of London and, by an act of royal clemency, was allowed a private burial.

Concerned Officers Harassed by Service

By Robert E. McGaw

Robert C. Brown at one time was a naval officer. Concerned about the war, he became active in the anti-war organization Concerned Officers Movement (COM). The Navy learned about Bob when he participated in a COM press conference in September 1970. Four days later Bob was "routinely" reassigned to a Naval position for which he had not been trained. Six months later, the Navy "released" him from the service. Now he is a law student.

While in COM, Bob was a member of the Board of Directors of the organization which included members from all five branches of the military. At times he was the executive secretary; he was an editor of the COM newsletter for a while.

Recalling the Navy's reaction to his COM press conference, he said, "This sort of thing happened to many of the members of COM. I was stationed in the Washington, D.C. area where we potentially had great access to our congressmen and senators so the Navy's reaction to me was fairly innocuous compared to treatment of other COM members.

"One guy I know who was stationed in San Diego was reassigned to Kodiak, Alaska. His commander told him that he was being sent to that outpost 'to freeze until his enlistment was over.'

"Some officers in Iceland requested our newsletter. About ten of the officers there became interested and drafted an anti-war letter. The local Iceland newspaper refused to run the letter, due to the NATO commitments Iceland had with the United States, so the group asked the other newspaper, a Communist newspaper, to run the letter. It did, of course, and on the front page. News of this got back to Washington in a hurry, and very quickly the ten officers were released from the Navy."

Although COM started as an anti-war movement, it quickly became a vehicle which would assure military officers of a method of getting discharged.

"The first members of COM were very conscientious, proficient officers, many with Vietnam experience," said Brown. "Some were career-motivated. None were slackers or gold-brickers. They were patriotic loyal Americans who were concerned about the war."

Now COM is concentrating on obtaining protection for servicemen's First Amendment rights.

"Fifteen of us are party plaintiffs along with COM to a suit we are bringing against Secretary of Defense Melvin Laird, in Federal District Court in the District of Columbia. We are suing for declaratory and injunctive relief.

"We don't want to be reinstated in our former military positions, nor do we want back pay; we simply want the court to order the military to stop harassing

assignment. It specifically referenced my political activities as being the reason for my transfer and said that the military intelligence spies had reported my activities to the Bureau. We knew that spies were at our meetings; spies generally infiltrate almost every gathering of servicemen.

"The spying gets absurd sometimes. A friend of mine in the Air Force near Grand Forks, North Dakota was having his car maintained when the mechanic asked him about the small box in the wheel well. It turned out to be a radio beacon transmitter so the spies could track my friend like in *Mission: Impossible*. He would leave the transmitter in his home garage whenever he drove off the base and replace it on his car whenever he drove on the base. I always hoped he would attach the radio to the general's car."

According to Brown, COM is basically a reactive organization. It does something and waits for

'No Slackers or Goldbrickers-- Just Patriotic Loyal Americans'

servicemen who exercise their First Amendment rights."

Oral arguments were heard November 29, 1971, on the government's motion for summary judgment. Now, over two months later, the court has not yet ruled on the motion. But even if the court dismisses the government's motion, the suit will drag on as it goes through discovery.

"There are lots of letters that we have seen or that we know to exist. We would try to obtain them through discovery, but the Navy would fight us since those letters are damaging to their case.

"For instance, I was shown the letter from BuPers [Bureau of Personnel] which ordered my re-

the Navy to react to it. Then COM reacts to the Navy's actions and so on. If the Navy ignored COM, said Brown, it would have died long ago. Even so, COM is rather inactive, as too many of the members are officers hoping to be released from the military because of COM membership.

Brown, Princeton '69, is a native of Mansfield, Ohio. He received his commission at OCS, Newport, R.I., and was subsequently assigned to work for Admiral Rickover. Nine months later he was transferred to the Naval Ships Systems Command. Six months later he was "excessed," i.e., released as part of a "manpower cutback."

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William Craig Roth, Graduate Student in History at Harvard University and former speechwriter for John Glenn

CAMPAIGN '72

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POLITICS AND THE MEDIA

Richard P. Flavin, Political Editor, WNAC-TV

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POLITICAL POWER IN NEW YORK CITY

Douglas Schoen, Student at Harvard College

THE BOSTON POLITICAL PROCESS — METHODS, MACHINATIONS

Joseph F. Timilty, Fellow of the Institute of Politics and former member of the Boston City Council

COMMUNITY ORGANIZATION AND COMMUNITY ECONOMIC DEVELOPMENT

Bernard R. Gifford, Fellow of the Institute of Politics, Loeb Fellow in Advanced Environmental Studies, and former President of F.I.G.H.T. (Rochester, New York)

ORGANIZING IN THE CHICANO COMMUNITY: EL PARTIDO RAZA UNIDA

Hugo N. Morales, Student at Harvard College

GETTING RESULTS — SKILLS FOR THE INNOVATOR

Jerry E. Mechling, Research Fellow of the Institute of Politics, former Assistant Administrator for Program Analysis and Development of the New York City Environmental Protection Administration, and former Aide to Mayor John V. Lindsay of New York

"THINK-TANKS" AND GOVERNMENT

Peter L. Szanton, Research Fellow of the Institute of Politics and former President of New York City RAND Institute

THE COMPREHENSIVE CONSUMER

Sharon King, Consumer Reporter, WBZ-TV, and former Special Assistant in the Consumer Protection Division of the Massachusetts Attorney General's Office

CONSUMER ADVOCACY IN PRACTICE: AN INVESTIGATION OF AUTO INSURANCE

Stephen B. Farber, Assistant to the President of Harvard University and Chairman, People for Auto Insurance Reform

THE OFFENDER IN THE CRIMINAL JUSTICE SYSTEM: VICTIM OR VICTIMIZER?

Chet Atkins, Massachusetts State Legislator; John Calhoun, Director, Boston Court Resource Project; DeWitt Stewart, Legislative Assistant to Representative Atkins

THE GREAT AMERICAN DRUG PROBLEM IN THE ELECTION YEAR

Guy Leveaux, Director of New Therapies Center; Jonathan Lieff, Student at Harvard Medical School; Roy Sussman, Student at Harvard School of Education

NEW TOWN DEVELOPMENT — THE LESSONS AND THE PROSPECTS

Albert C. Pierce, of the Cambridge Institute
Gar Alperovitz, Co-Director of the Cambridge Institute, and Jim Campen, Member of the Union for Radical Political Economics, Harvard University

RADICAL LIBERTARIANISM

Juris Kaza, libertarian activist, former Managing Editor of the **Columbia Daily Spectator**

RIGHT-WING PARTIES IN EUROPE AND AMERICA

Peter P. Witonski, Fellow of the Institute of Politics and former speechwriter for U.S. Senator James L. Buckley of New York

APPROACHES TO CHANGE AND CONFLICT IN THE INTERNATIONAL ARENA

Bjorn Egge, Fellow of the Center for International Affairs at Harvard; Lieutenant-Colonel, Norwegian Army; formerly participant in the United Nations Operation in the Congo and Military Attache in the Soviet Union

BANGLADESH: BIRTH OF A NEW NATION

Rounaq Jahan, Member of the faculty of political science, University of Dacca, and Teaching Assistant in Government at Harvard University

Law Students to Simulate Mideast Crisis

By Daniel M. Taubman

Twenty-four law students will simulate a hypothetical Mideast crisis as part of a course-based political "game plan" today and tomorrow in six Pound classrooms.

The exercise is part of Professor Roger D. Fisher's seminar on *The Middle East — Roles for Law in Conflict Resolution*, and is designed to provide players with the opportunity to learn, through role-playing, some of the constraints and pressures involved in an international problem of conflict resolution.

The project, the first of its kind at the Law School, was granted \$150 for operating expenses by the administration.

Players include 14 members of the seminar, 10 volunteer students, Fisher, and two experts on game theory. They are divided

Participants Test Conflict Resolution

into three- and four-man teams representing the United States, the Soviet Union, Israel, the Arabs, and a supervisory "Control" unit. The American, Soviet, and Israeli teams contain a president, a domestic policy adviser, a military adviser, and a foreign policy adviser.

Three subteams representing Egypt, Jordan, and Palestinian Arabs represent the Arab nations. Control includes Fisher, organizer Clifton Leonhardt, 3L, as game directors, and Timothy A. Chorba, 3L, as press representative.

Colonel T. L. Fisher, research consultant at the Fletcher School of Law and Diplomacy, will serve as military adviser, while Roscoe Suddarth, a foreign service officer spending the current academic year at M.I.T., will assist Control as an expert for those nations not represented by teams.

Leonhardt explained he organized the gaming program because "I've been interested in gaming a long time" and because he feels this is an "interesting educational experience. The players are put in roles they are not accustomed to," he said.

According to the "Operations Plan" distributed to participants, "the game is designed to give par-

ticular attention to the manner in which the relations between the regional adversaries are affected by the ties with the superpowers, and, in turn, the manner in which the local surrogates affect the relations of the global actors."

Later this afternoon, a "Scenario" representing a hypothetical
(Continued on Page 12)

Ames Options Called Successful

By Bob Brown

Last fall first-year students had an opportunity to work on one of a variety of real legal problems — "Ames Alternatives" — in lieu of the traditional Ames Competition. Although a Board of Student Advisers' poll of the Alternative participants is not yet complete, the general impression seems to be that the new program was a success.

In previous years there had been sporadic attempts at providing 1Ls with reasonable alternatives to Ames. Most were unsuccessful. This year marked the first full-fledged attempt at creating an organized, complete program for those who found the prospect of competing in the conventional Ames dull.

The result was that nearly one-fifth of the first-year class opted for Alternatives. Sixty-one students were picked by lottery from a pool of those expressing interest. They were assigned to one of four student organizations for projects and supervision: Committee for Legal Research on the Draft, Civil Rights-Civil Liberties Research Committee, Environmental Law Society, and Harvard Student Legislative Research Bureau.

Approximately 35 additional 1Ls qualified by proposing suitable Alternative projects to the BSA. Among these were a group

of 10 working on a California case related to discrimination against Chicanos. Five women were engaged in two separate projects related to women's rights, and eight other students divided into two teams and wrote briefs for the opposing parties in a Colorado case involving state support of higher education for Indians.

CLRD attracted the largest number of students, 26, although CR-CLRC supervised 30 1Ls counting the two women's projects and the Chicano case.

CLRD Attracted Largest Numbers

One of the weak points of the Alternative program was that few students had the opportunity to present oral arguments, although CLRD's Bruce Friedman, 2L, who heard most of the arguments from his organization's participants, noted that the people who did argue were "well-prepared and sincere." Most people argued *ex parte* of necessity, but the disadvantages of no opposing counsel were offset to some degree by more aggressive judges.

Professor Louis L. Jaffe, who judged two Ames arguments and an *ex parte* Alternative presentation, strongly supported the

(Continued on Page 14)

Nader Attacks Air

By Robert E. McGaw

Ralph Nader spoke on the subject of air pollution. He was against it.

Addressing the "Symposium on the Legal Aspects of Air Pollution" Saturday morning at the Sheraton-Commander Hotel in Cambridge, Nader voiced his views in a wide-ranging lecture entitled, "Legal Aspects of Air Pollution Control."

Nader explored creative sanctions that could be imposed to attack polluters. Declaring an "Environmental Bankruptcy" was suggested. Nader envisioned a procedure whereby a court could order new management to replace managers of an industry adjudicated to be polluting, in much the same way that a business in bad financial condition can be put into bankruptcy by any of its creditors.

The former editor of the Harvard Law School RECORD also suggested "forbidding the chief officer of the corporation from going to his office for a number of weeks, denying a corporation the use of advertising for a specific time period, closing down a plant for a number of days, publishing public apologies for past pollution violations, and putting

not be secret but should be made on the record.

Professor Louis L. Jaffe disputed this point in the question-and-answer period. In a series of exchanges, Jaffe stated his view that the President always had the right to intervene in rule-making proceedings when it was a question of policy.

The meeting, sponsored by the New England Consortium on Environmental Protection, was



Ralph Nader

part of a three-day focus on environmental problems.

Nader, with some cynicism,

Industry's Efforts to End Environmental Damage Belittled

the president of the corporation to work on the assembly line (at his executive salary) with the plant workers" as possible sanctions that could be imposed for various violations.

Nader assailed Nixon's intervention in rule-making proceedings before agencies in the executive branch. Although Nader felt the President might have a right to intervene in policy-making decisions, he stated that any such interventions should

jeered industry's half-hearted attempts to develop technology less damaging to the environment. He pointed out that statistics about an industry generally are provided by that industry itself. "The public utilities say there's an energy shortage, but at the same time they urge people to buy all-electric houses and they support the oil import quota and production quotas. Industry has demonstrated little real interest in initiating ecological moves.

Indian Law

By Paul Weiner

The Graduate School of Education, with the support of the Law School, is offering a course on *Law and Policy Concerning American Indians* under the direction of Daniel M. Rosenfelt, senior staff attorney in the Center for Law and Education and a member of the faculty of the School of Education.

The spring semester course is being offered for credit in the School of Education. The Law School considers the course experimental; it is open to law students only on a non-credit basis.

Law students may write a paper in connection with the course and use it to satisfy the written work requirement or obtain credit for it as written work, but they must be sponsored by a Law School professor and otherwise meet the Law School's written work requirements. Students interested in writing a paper who are in doubt as to whom to consult should see Professor Henry J. Steiner.

The course will be taught by Rosenfelt with the assistance of Professors Steiner, Frank I. Michelman, Benjamin Kaplan, and Donald T. Trautman of the Law School; Shelton H. Davis, lecturer on social anthropology in the Faculty of Arts and Sciences; and several American Indian students at the School of Education.

The course met for the first time on Wednesday, February 9. It will meet every Wednesday from 4 to 6 p.m. in Pound 100 for a "formal" lecture. These lectures will be supplemented by a lesser number of "informal" sessions.

Law students who wish to take the course should simply come to its meetings; there are no formalities or registration.

The course will deal with the interaction of the federal government and federal law with the Indians' law and society, rather than with Indian tribal law per se.

"Many of the basic issues that you deal with in law school are

Offered at Ed School and HLS

extremely important in federal Indian law," Rosenfelt emphasized. He calls the course "two-headed" in that it deals at once with fundamental legal concepts and pressing legal problems.

Several of the earlier lectures will deal with jurisdiction and sovereignty as reflected in the administration of criminal justice, the legal status of the Indian tribes with respect to the federal

now available at the Coop in a two-volume, mimeographed edition; it will be published in hardback next year.

Custer Died for Your Sins: An Indian Manifesto, by Vine Deloria, Jr., and *Our Brother's Keeper: The Indian in White America*, edited by Edgar Cahn, are supplemental reading.

Rosenfelt, who graduated from Columbia Law School in 1966,

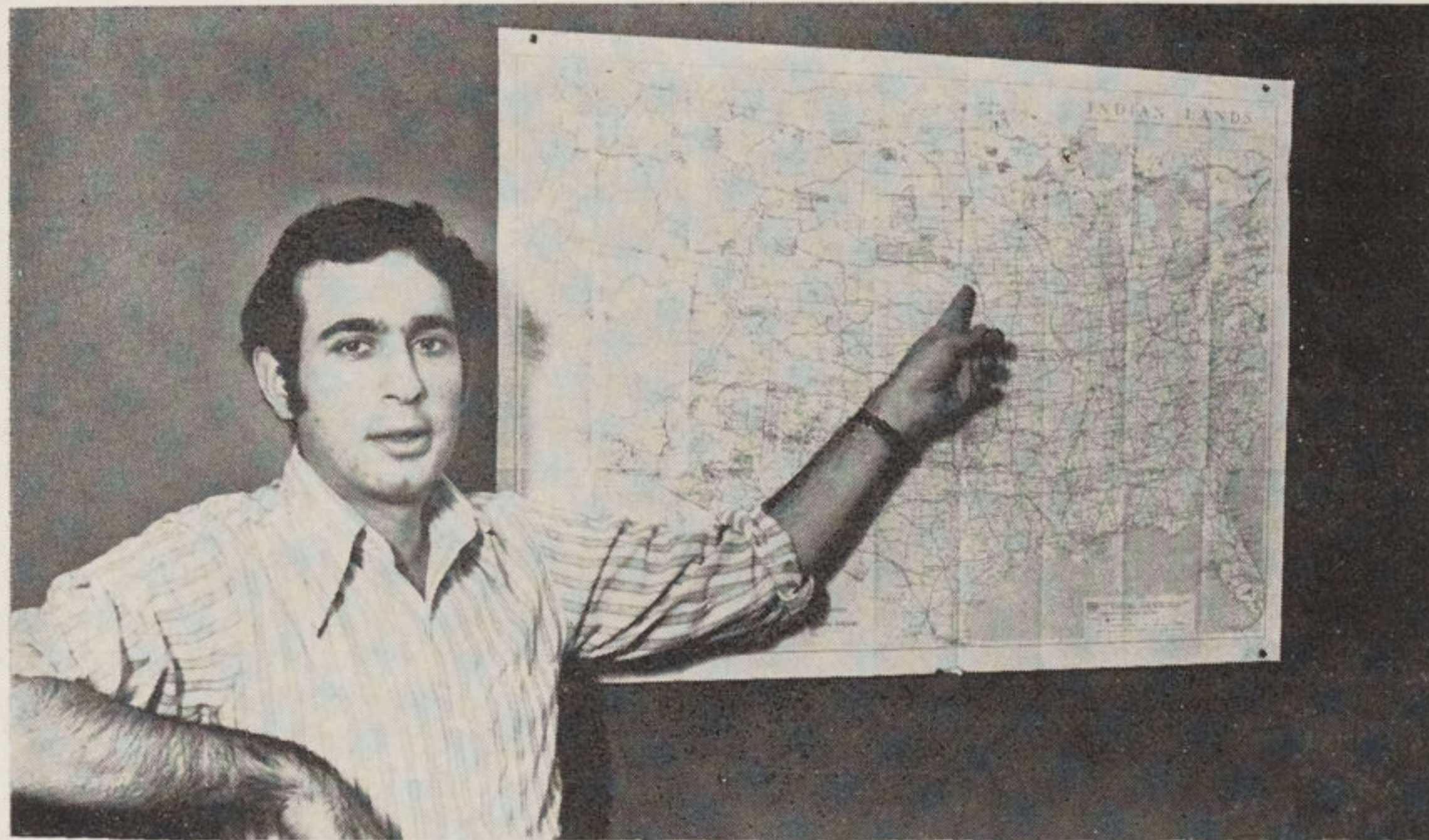
thor of the experimental course's text.)

Rosenfelt has spent the last three years with the California Indian Legal Services and its Native Americans' Rights Fund Division representing Indians throughout the country. He represented the Winnebagos of Nebraska in an attempt to protect their treaty land from the Army Corps of Engineers. He worked for the Pueblos of New Mexico on a case alleging misuse of federal educational funds and made an analysis for them of the pending Rio Grande water rights litigation.

Rosenfelt served as tribal attorney for the Chemehuevi Tribe in California, and also represented the Lumbee Indians of North Carolina in a suit challenging a desegregation plan which would require the rural Indian population to be bussed farther than either the blacks or the whites.

Rosenfelt has just filed a petition for *certiorari* in the Winnebagos' case. He will argue that though it is accepted that Congress may abrogate a treaty guaranteeing tribal land "forever", it must do so by express legislation.

Anyone interested in working on a paper or brief which might be of practical use in litigation, whether for credit or not, should



Charles Soberman

Daniel M. Rosenfelt discusses Indian land rights.

government, and Indian property rights; the powers of tribal self-government, and how such powers are limited by the state and federal governments; sovereign immunity of Indian tribes and of the federal and state governments, and how this affects the Indians' access to the courts.

The later lectures will deal with such more specific issues as Indian water rights and the western states' doctrine of prior appropriation, the movement to preserve cultural pluralism in Indian education, customary law and its interaction with federal and state law, the diminished rights of the Indians of Oklahoma under Public Law 280, and the practice of federal Indian law.

The course will use as a text *American Indian Legal Problems: Cases and Materials* by Professor Monroe E. Price of the UCLA Law School. The text is

practiced law for two years with a commercial firm in Beverly Hills. While practicing in Beverly Hills, he made a number of friends on the UCLA law faculty and in the California Rural Legal

Assistance organization (CRLA). (Visiting Professor Gary Bellow was then with CRLA.) It seemed to Rosenfelt that they were doing more interesting work than he was.

So when a group of people from UCLA and CRLA founded the California Indian Legal Services (CILS), Rosenfelt left his firm and joined them. (While working for CILS, Rosenfelt met Price, au-

see Rosenfelt.

The Center for Law and Education, funded by the Office of Economic Opportunity (OEO), provides research studies and assistance to attorneys throughout the country on matters of law and education. The Center, which is sponsored by the Law School and by the Graduate School of Education, has devoted much of its effort to desegregation cases.

Rosenfelt Left Commercial Firm To Join Indian Legal Services

Now What?

The returns are in on the clinical legal education questionnaire, but one is left wondering whether anyone is now in any better position to decide the great debate over clinical programs.

The returns did not indicate anything that was not known beforehand — although the actual number of completed surveys was meager, students overwhelmingly think that clinical education is a necessary part of the Law School curriculum.

Some of the results are interesting and unexpected — almost 62 per cent supported clinical work in a private law firm, even though such work has always been available in the form of summer employment after the second year. While 42 per cent said that they would definitely be working for a volunteer legal assistance office next year, only seven per cent even ranked these programs with the likes of the Bellow courses and law firm or government work.

But as usual, the question will not be "what did the survey tell us?" but rather "is the questionnaire valid?" Typically any questionnaire polls the views of the most interested students — those who have strong feelings either for or against the subject — and this fact was borne out by the various comments written on the surveys. But it is this survey which will form the backbone of the report of the Committee on Clinical Legal Education, and it is this report which Dean Sacks has been waiting for before making any sort of decision on clinical education programs at the Law School.

In effect the report will add fuel to the fires of both camps — pro-clinical program advocates will point to the results. Anti-clinical forces will point to the small sample. In short, it would seem that the survey got us nowhere.

So the Law School is faced with a decision similar to those which occur with regularity, but which are often hedged or ultimately ignored. Will the School take a chance on those programs which have met with the highest approval of the students who took the time to complete the survey, or will it prefer to leave the experimentation to other more courageous but less prestigious law schools who have, therefore, less to lose?

At the least, the survey indicated that over 190 students are interested in clinical programs and are dissatisfied with the traditional means of receiving a clinical education while in law school. One hopes that the faculty will take some time out from patting themselves on the back for their belated foresight in approving the "experimental" Bellow courses, and put their minds to work at implementing additional programs.

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(The following is an extract from the prospectus of First Fenno Corporation, whose formation was announced last week. Such extract is neither an offer to sell nor a solicitation of an offer to buy. The offer is made only by The Company's strong-arm men.)

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Aside from the usual income-tax evasion proceedings, there are no material legal proceedings to which FF is a party.

Further information may be obtained by approaching the black Chevy parked at the corner of Prentiss Street and Mass Ave, at 9:07 weekdays.

Law Notes

Newly-elected officers of the Harvard Law School Forum include Jonathan C. Stapleton, 2L, president; Ernest L. Brazil, 1L, vice-president of administration; Mark E. Mazo, 1L, vice-president of programming; Diana M. Daniels, 1L, vice-president of promotions; Robert J. Dwyer, 3L, secretary; Jan Charles Gray, 3L, treasurer; Carolyn E. Beck, 1L, Jack R. Bierig, 3L, J. Ken Davis, 1L, Larry P. Katzenstein, 3L, and E. Joseph Hammond, 1L, directors.

* * *

"The faculty of the University of Florida Law Center at a recent meeting voted full membership rights in all faculty committees to representatives of the law student body. The student representatives will sit on all faculty meetings, have speaking privileges and be entitled to vote on all issues coming before the faculty."

— *The Verdict*, Holland Law Center, University of Florida.

* * *

The recent term bills of residents of Ames, Dane, Holmes, Shaw, Story, and Wyeth Halls included an additional dormitory room charge (which the government has just ruled was not included in the price freeze) retroactive to September, 1971. The Law School intends to charge the higher rates only from February 1, 1972. You should pay your term bill; the adjustment will appear on your next term bill.

* * *

Charles E. Schumer, 1L, was elected president of the Law-Graduate Democratic Club at its annual meeting last week.

* * *

The Harvard Voluntary Defenders have announced new officers, effective February 14. The newly elected officers are: Susan C. Ostberg, President; Eduardo G. Mestre, Administration Officer; Abbott L. Reichlin and Louis E. Wolcher, Operations Officers; and Edward J. Christiansen and David T. McDonald, Research and Appeals Officers. All are second year students.

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BSA Announces Spring Competitions

The Board of Student Advisers has announced two competitions for 1Ls this Spring — the Williston Contest in contract drafting and the spring Ames Competition. Both will take place during March and early April, but the contests will be slightly staggered so interested students can enter both. Prizes in the form of cash or books may be awarded.

The Williston Contest, moribund for several years, was revived last year and attracted over 100 entrants. Winning teams split a \$500 prize and attended a banquet after negotiating and drafting an employment contract between a Massachusetts university and its new president.

Participants work in groups of four — two representing each party to the contract — and negotiate its terms. The teams then combine to draft the final instrument. Contestants set their own negotiating schedule and are free

to consult anyone or any source to assist their efforts. Board members play the role of clients and are available for consultation.

The Spring Ames Competition will follow the format of the fall competition, and is entirely optional. Some choice among different cases will be possible. The contest is not a prerequisite to entering the Upper Round Ames Competition, which begins in the fall of the second year. The Board is now studying a proposal to award prizes to the winners of this contest and will announce its decision soon.

Interested 1Ls can choose their own partners and opponents or ask the Board to assign them. Deadline for entering both contests is 5 p.m. Tuesday, February 15. Interested 1Ls may pick up signup forms in their sections on Friday, February 11 or at the Board offices in Langdell.



Simulated Crisis

(Continued from Page 7)

situation in May, 1972, will be distributed to participants. The Scenario, together with subsequent additions, will "leave the playing teams as free as possible to define and develop their own motives and strategy, and to deal with the consequences of interaction between different team strategies."

Each team will operate in its own private room, and messages will be communicated via the central Control. Teams will make moves simulating the actions of the political entity they represent.

To operate effectively, each team must clearly delineate its strategies, its alternatives considered and rejected, contingencies foreseen, and projected reactions of other teams.

The task of Control is to receive each team's moves and add new elements to the situation. Two move periods today and a final one tomorrow will confront the teams with restructured situations reflecting the implications of their strategies.

Intelligence activities are generally limited to requesting information from Control. "No 'unofficial' information should be sought, e.g., by rifling a rival team's documents between moves or by eavesdropping," the Operations Plan cautions.

A post-mortem critique will take place tomorrow from noon to 1 p.m. in Pound 200 to discuss and disclose all team strategies.

Gravel Delayed by Campaigning

(Continued from Page 1)

After he quipped, "I have come all the way to Harvard Law School. I thought at least one of you would ask a question," a few hands went up.

The senator's belated Forum appearance occurred at the end of a long day's campaigning for Senator Edmund Muskie. An early evening cocktail party and dinner at Locke-Ober's were directly responsible for the delay. Forum officers complained about the lack of communication from the senator's staff as he was running late. "His advance men were advancing for the first time. They were out of Muskie's Boston headquarters and were rank amateurs," one said.

Gravel, in response to a question from the floor, defended his support of his Senate colleague for the Democratic presidential nomination this year. "Muskie will win because he is the only centrist," he said. "No extremist will ever be elected president of the United States."

Gravel made front pages across the country last summer when he tearfully read the Pentagon Papers into the *Congressional Record*. He came out strongly in favor of government disclosure of its activities during the Forum program as well. He argued that only military battle plans and the like should be kept from public scrutiny and that major diplomatic negotiations should be conducted under U.N. auspices with no "secret deals."

The senator was also concerned about the prosecution of Beacon Press for publishing the Pentagon Papers. Because the publishing house is controlled by the Unitarian Church, he said, the government was conducting a "religious persecution."

Most of the question and answer period was devoted to foreign policy, Gravel outlining his neo-isolationist position. He advocates bringing all troops based on foreign soil—Germany and Ethiopia as well as Vietnam—back to the U. S. and limiting the armed forces to those troops necessary to man strategic weapons such as Minuteman missiles, SAC bombers and Polaris submarines. He said that he was not advocating a Fortress America, however, because he would discharge the returning troops, "not put them in a lot of forts."

The hundred or so Forum ticket holders received a refund or tickets for this week's speaker, FCC Commissioner Nicholas Johnson, in exchange. The Forum pays no honorariums to its speakers but there are considerable operational expenses. "The Forum took a bad beating," said president McGaw.

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Today's accomplishment is built on yesterday's knowledge. This has a profound implication. We cannot surpass the past until we learn its lesson faster than our predecessors. Our progress starts only after we have mastered the current state of the art. That is what all education is about. It is the process of compressing the time required to learn that which others have learned before us. If that time can be compressed, then our efforts and energy can be devoted to extending the state of the art, not rediscovering it.

This means that the efficiency of education is a direct determinant of the potential future progress. If it took a lifetime to learn the relevant background, then there would be no time left for extension of that knowledge.

The efficiency of the education process is a function of many factors, but certainly the means of communicating and storing information is one of the cornerstones. It would have been nearly impossible for the industrial revolution to occur without the printing press being invented at the same time.

The art of teaching itself has made notable advances in many areas. This is particularly true as the learning techniques have focused on relationships and concepts rather than fact accumulation for its own sake. As total knowledge becomes greater and greater, then the more important it becomes to identify that which is relevant and precisely how and why it is relevant.

This is particularly true of business and business education. Everything is relevant to business. The amount to be known about even a simple business is literally infinite. Yet, if this is so, how does a manager know what is important? What is worth remembering? What does the important information signify?

Traditionally, a man entering business qualified himself by becoming an "experienced man." By the acquisition of experience and by repe-

tition it became possible to identify those characteristic things which were relevant and significant. Yet, it is obvious that if experience were the only teacher, then we would on average become as competent as our fathers only if our life expectancy exceeded theirs. Significant progress in each generation requires a more efficient teacher than experience.

The foundation of efficient education is the formulation of concepts. This is the skeleton upon which the whole of our body of knowledge must be supported and coordinated. Without concepts to tie facts together, the facts are merely random and often meaningless. With basic concepts as modules it is possible to determine how and where all information is relevant.

Therefore, in a very real sense our ability to become more effective businessmen depends upon our ability to acquire early the key concepts which bring all of our business information into focus.

In the absence of concepts many of the business decision making skills have been intuitive. Often these intuitive decisions have proven to be almost uncanny in their precision when they were the result of the effort of experienced and gifted men.

Unfortunately, less gifted and less experienced men cannot judge the validity of intuitive decisions until long after the fact. Real genius is apt to be unappreciated particularly if it is ahead of its time. Worst of all, genius is in short supply. Furthermore, there is little that can be passed intuitively from one management generation to another, even by geniuses.

When our business concepts can be made explicit, then they can be discussed, explored, validated, improved or taught efficiently. Only when the business can be managed in terms of concepts will it be possible to recognize the relative value of the vast amount of data which is available concerning any business.

Business success will always require finely honed judgment. Theory will always seem a little esoteric to men of action and affairs. However, it seems self-evident that the future will belong to the businessmen who develop superior concepts and explicitly and efficiently pass them on to their associates for improvement.

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Ames Options Success Say Brief Supervisors

(Continued from Page 7)

new program. He noted that the real-life nature of Alternatives may result in "an increased level of engagement" for someone who would find conventional Ames uninteresting.

"I found the Alternative briefs to be far superior to the Ames briefs I read," said Mike Lehr, 2L, of BSA. Some of Lehr's BSA colleagues were equally enthusiastic, but others felt that the program's shortcomings outweighed its advantages. Lehr found that those who did Alternatives ended up spending much more time and writing longer briefs. The projects were also well-received by the supervising organizations. "Superior," said Don Solomon, 2L, of CLRD.

Both students and supervisors attributed the high quality of the work and the extra time devoted to the projects to the motivation and incentive provided by actual cases.

Most students who elected Alternatives did so because of their desire to do something which would eventually be useful in a real world situation. Some people did briefs, others did memoranda or research papers, but in most instances the end result was of some value and, according to Friedman, "well-received by attorneys." This was particularly true of CLRD and CR-CLRC, whose cases seemed to lend themselves well to becoming Alternative projects. An Alternative done for CR-CLRC eventually resulted in a decision in Montgomery, Alabama, forbidding the use of public school facilities by private schools.

Some students who did work for the Student Legislative Research Bureau were disgruntled because their projects seemed to be make-work and involved little opportunity to learn to do legal research. While continuing to favor the Alternative concept,

they indicated that they probably would now choose a different area in which to work.

Another problem, probably due to kinks in a new program, resulted from confusion about the BSA's role. "We didn't really know what we were supposed to do because the BSA criteria were not clearly defined," was a typical complaint. In some cases this meant wasted effort tailoring the Alternative to suit the BSA's formal requirements for the conventional Ames. Other students had virtually no contact with their BSA adviser but received all their guidance from the supervising organization or, in a few cases, worked independently. Most students were happy with the support they received, and many felt they had more close supervision than the Ames participants.

The BSA has presented a preliminary report to the First-Year Committee recommending that the Alternative program be continued at about the same level as this year. No final action by the faculty has yet been taken, but all indications are that next year Ames Alternatives will again be an available option.

New Committee To Field Gripes

The Law School Council has designated Professor Stanley S. Surrey and Arthur R. Angel, 3L, to handle grievances, complaints and requests with respect to the administration of the Law School.

Both students and faculty may present matters to the two-member committee established in accord with the recommendations of the student-faculty Governance Committee.

Surrey and Angel are authorized to make inquiries regarding each complaint or request. They are to insure that questions will be handled expeditiously and considered at a level empowered to weigh them in reaching a decision. Matters may also be referred to the Dean.

The grievance committee may not consider the merits of any particular case but may refer to the Council any matter of general Law School policy raised in a case if appropriate for Council consideration. Additional teams of one student and one faculty member may be appointed if necessary.

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Law School Must Examine Processes of Change

By Paul R. Gupta

Much like the warbling of the birds hidden in the ivy-covered columns of Langdell, a vague sense of disquiet seems to drift through the Law School. When was the last time you heard someone, other than a professor, express his (or her) great affection for law?

Perhaps part of the problem is that we are in training for a goal we cannot quite comprehend—the use of our legal talents for the corporate good. “Working within the system” has, probably rightly, become a respectable means for fulfilling the variety of human ambitions. For, as Bertrand Russell knew a quarter-century ago, “In the modern world and still more, as far as can be guessed, in the world of the near future, important achievement is and will be almost impossible to an individual if he cannot dominate some vast organization.”

The excitement of the private hero, exemplified for instance by Ulysses and James Bond, is not even capable of being communicated vicariously in these dull times. Joyce demolished the Ulysses myth fifty years ago; “abnegation” is a critical word for him. And Bond and his friends were fun, but this year he looked a bit tired; the machines did most of the work.

So, the Mittyesque dreams are denied us. We cannot individually cure the ills of the legal process by replacing one of its broken pistons with our pen in a stroke of magnificent inspiration. At most, we can hope to be able to give our pen to the future senior partner just when his own pen runs dry, and thereby win a promotion a few weeks earlier.

Russell's observation is especially relevant, moreover, for a law student. Especially since the coming of the *West Digest* scribes and their colleagues, he needs to be aware of the brooding presence of case law. Learning and dominating the West system seems

which came from man's heart, not from his head. After all, how else can we explain modern obedience to laws which are not merely irrational now but were irrational when they were first conceived?

One cannot quarrel with the harmless ritual of “Oyez, Oyez”

Was Athena the First Woman Law Professor?

to be an important achievement in itself, leaving little time for most of us to consider other kinds of achievement.

Worst of all, law engenders its own mystical and quasi-religious matrix, or at least so it appears to the newly initiated. Legal analysis requires such great familiarity with legal incantation that the two would be indistinguishable, were it not for the lawyer's great gift to distinguish between anything and anything else.

Because of the nature of law, and perhaps also because of the nature of man, our predecessors felt a compulsion to take their law from the gods. For example, here is Athena enunciating an early form of Federal Rule 1 on substantial justice: “Venerable, not venal, this tribunal I establish now: quick to vengeance and alert—a sentry over sleep.” If the tribunal were not established by the words of the goddess (Query: Was Athena the first woman professor of law?), it surely would have no authority.

As C. G. Jung and others believed, law ultimately draws its power from eternal and unchanging archetypal beliefs

and judicial robes. It is even possible that it serves a useful purpose in reminding us that in theory law is not subject to individual caprice, but rather is supposed to be the “witness and external deposit of our moral life.” Conversely, it is certainly possible to argue that a wholly rationalistic structure of law would collapse into anarchy.

However, it is not very safe to assume that present law basically enshrines timeless truths. We consider law to be a formal system of political values and arbitrary judgments which have been sanctified by use, but not yet proven to be the best that society can contrive.

It is charming to think that a man who has worked his way to the top of a vast organization will become a great leader or that a good theory, freely competing in the “marketplace of ideas,” will become accepted as soon as it proves itself to be worthwhile. Is intrinsic goodness enough to succeed? Most people accept the inevitability of change, but as our President's philosopher-in-chief, Henry Kissinger, has said: “It

(Continued on Page 16)

Backbencher

(Continued from Page 15)

is the task of the conservative not to defeat but to forestall revolutions." Therefore, it may well be the task of the liberal to aid and abet progress toward those goals he believes in.

These are mostly issues for possible individual concern. The Law School, though, might find it institutionally appropriate to more intensively examine the processes of change. We need to better understand the transitions between past and present law, and particularly the judicial and legislative devices which guide the development of law.

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