

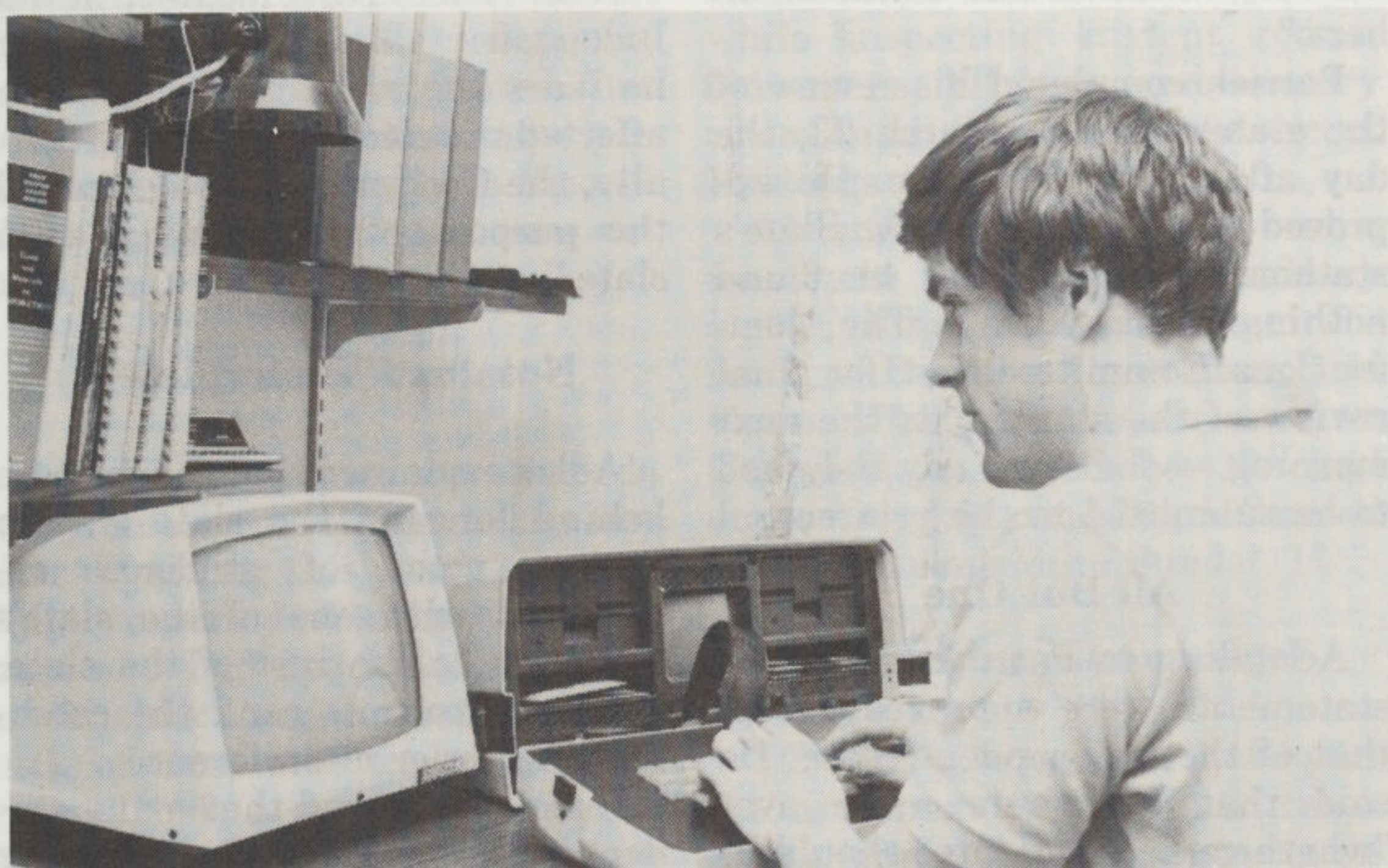
HARVARD LAW RECORD

America's Oldest Law School Newspaper

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25 CENTS



John Morris

Tony Downer, 1L, at the keyboard of the word processor he will no longer be allowed to use in exams.

Ad Board Bans Use of Word Processors in Exams

By Michael Medina

The HLS Administrative Board voted unanimously on April 7 to prohibit the use of word processors or any typewriters with memory capabilities in final exams.

The primary concerns of the Ad Board were that most students could not afford the equipment, that it is possible to store "canned" answers in the memory and that the use of word processors during exams would make other students nervous about any "edge" it might give to those using them. The Ad Board is the body at HLS primarily concerned with student discipline and making exceptions to HLS academic policies. (See article on page 4).

Since the issue first arose in late February (see RECORD, Feb. 26, 1982, p.1) it has drawn media attention from such newspapers as the *Harvard Crimson*, the *New York Times*, the *Wall Street Journal* and *American Lawyer*, as well as *Time* magazine and radio stations WITS (Boston), WIND (Chicago) and WRC (Washington, D.C.). "Oh no," moaned Wayne Walker, one of the students involved, upon being contacted by the RECORD. "Not another story!"

Two Cause Concern

The controversy over the use of the machines arose when 1L Tony Downer was contacted as his first exam was ending and told to see

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Clinical Spots Saved Despite Budget Cuts

By John Morris

Despite the loss of federal funding for the Legal Services Institute, students pre-registering for clinical courses this coming week will still have a wide variety of programs to choose from, and the number of clinical positions available will actually be larger than last year. Fewer full-time clinical placement positions will be available, but the number of part-time positions will increase under proposals the Law School and Greater Boston Legal Services (GBLS) have before them.

When it was learned last year that the Institute (LSI) would lose its approximately \$500,000 in federal funding from the Legal Services Corporation, it was feared that the LSI would have to close down completely and that the School would lose a number of available clinical positions as a consequence. However, Dean Vorenberg and the LSI have been negotiating with GBLS to arrange joint funding of a number of the LSI's functions which would be combined into something tentatively called the Legal Services Center. It has not been decided yet whether the LSI offices in Jamaica Plains will be maintained or if space closer to campus will be sought. Northeastern University Law School, a current LSI sponsor, will not be a sponsor of the new program.

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Coop Officials Decline to Alter Election

By Brad Hudson

The nine members of the Independent Slate running for positions on the Coop Board of Directors have been notified that the Coop stockholders do not plan to alter this year's election in response to an election grievance filed by the slate on April 8. The slate members filed the grievance to protest the timing of the distribution of ballots and the editing of their personal statements without their consent.

The election of student directors is supervised by the 10 stockholders, 5 of whom are students. According to Deval Patrick, 3L, one of the Coop's stockholders, the controversy began when members of the current Board of Directors persuaded the stockholders to allow candidates to include personal statements along with the usual biographical data in the election flyer sent out with the Coop ballots. The policy change was made on March 17 — five days before candidates had to turn in their statements.

Only an Experiment

Patrick, who favored the change, reported that some stockholders opposed the idea because there was no set procedure and not enough time to draw one up. "I persuaded the stockholders to put together a procedure for this year," he said. The personal statements would be an experiment, leading to a more permanent procedure in the future.

The stockholders set up a two-tiered review for the personal statements, based upon loose criteria of "consistency, accuracy and appropriateness." The first review was to be conducted by Patrick and the second by the Nominations Committee, composed of one-half of the stockholders. The candidates were notified of this procedure in a letter from James D. Bruce, chairman of the Nominations Committee.

The members of the Independent Slate each submitted identical

statements of purpose, which read: "I am a member of the Independent Slate, dedicated to making the Coop a more cooperative society. We believe in student items at student prices, responsible investment, positive labor/management relations and better communication between students and board members."

Patrick completed his review of the statements on March 23, the day after they were due. He approved the Independent Slate's statement, saying that he found nothing wrong with it. The Nominations Committee met for final review of the statements the next morning — the same day they had to be submitted to the printer.

All But One

According to Patrick, all of the statements were approved except that of the Independent Slate. He said that a dispute arose over "whether the candidates should be able to use the official materials to identify themselves as a group."

Apparently, the committee deadlocked. "We couldn't settle the dispute within the time we had," explained Patrick. So the committee decided to reserve the question as a matter to be discussed in formulating a permanent policy, but disallow the statement for use in this election. Each slate member's statement was edited to read simply: "I am dedicated to making the Coop a more cooperative society. I believe in . . ."

Although some confusion existed over when the ballots were supposed to be sent out, they were apparently mailed on the scheduled date of April 2 — at the end of spring break. Slate members first learned of the change when they returned to school and found the ballots in their mailboxes.

The controversy erupted in full the following Monday when the *Crimson* revealed that the committee had altered the statements. In a critical editorial, the *Crimson* compared the Coop election to the recent election in El Salvador.

The Independent Slate responded to the committee's action by filing an election grievance, requesting that the election be annulled or that any voters who cast their ballots before April 7, when the slate distributed its own election flyer, re-vote.

John Adler, 1L, a member of the Independent Slate, described how he fears the alteration may have affected the election. "Unintentionally, the Coop may have destroyed the purpose of us running as a slate."

Not Just "Boilerplate"

Adler explained that the purpose behind forming the slate was to attract votes of students acquainted with one of the slate's members to the rest of the slate. To vote, students rank the candidates in order of preference.

But Adler feared that many students either cast their ballots or simply threw them away without understanding what the slate represented. Further, he felt that the nine identical and ambiguous statements made the members look unimaginative — as if they had simply copied a "boilerplate" sample statement supplied to all the candidates.

Patrick expressed a different view: "I have trouble understanding the harm," he said. He reported that any voter who threw his ballot away can get a new one from the Coop. He also rejected the idea that the statements as printed hurt members' images: "I don't think they looked ridiculous."

Patrick felt that most voters were aware of the issue by last Monday, when the *Crimson* published its story. He said that he went over to the Coop to see how many ballots had been postmarked before that date — only six ballots had been cast.

At present, it seems unlikely that the stockholders will take any affirmative action in response to the grievance. In a letter dated April 9, Bruce sent each of the

of Directors

slate's members a letter explaining the situation. He explained that while all the issues raised by the grievance would be considered this spring as part of making the procedure for personal statements permanent, he saw no reason to "change any of the procedures associated with the present balloting." After filing the grievance, members had also requested that they be allowed to distribute ballots to those who may have thrown them away. This request was denied also.

No Further Protest

Apparently, slate members do not plan to press the issue any farther regarding this year's election. Adler reported that most of the members had concluded that the stockholder's action was a result of lack of time and set procedures, rather than a desire to hurt the slate. Said Adler, "It's clear in my mind that the stockholders weren't trying to persecute us. I think it's more the cumulative effect that hurt us than any intentional act."

But Adler also stated that the slate would not withdraw its grievance. He said the slate hopes the grievance will eventually lead to a set election procedure in the future. "We think there should be a definite procedure with set times and dates." He also felt that it would be "to the advantage of the electoral process not to edit the statements without consent." Presumably, these will be some of the issues the stockholders will address when they examine the election process later this spring.

Vorenberg Tours Dorms

By Dave Horn

Dean James Vorenberg made an impromptu tour of the HLS dormitories on March 19 and said he was "troubled" by some of the conditions he found there. According to some members of his entourage, Vorenberg encountered "a few cockroaches" and some noisy pipes while inspecting student rooms, bathrooms, kitchens and laundry rooms in all the HLS dorms except Hastings.

Accompanying Vorenberg on his tour were Dean of Students Mary Upton, Financial Officer and Director of Business Operations Paul Upson, Resident Assistants Ann Campbell, 3L, Bud Gilbert, 2L, and Jorge Vega, 3L, and Dorm Council Vice-President Mike Sundel, 1L.

A "Working Knowledge"

"The purpose was really to give me a context in which to think about long-range budgetary questions," said the Dean. He said that he and other administrators must make decisions about maintenance in the dorms. "Now that I have seen it, heard it, felt it and smelled it, I can make decisions more intelligently," said Vorenberg. He added that the tour helped him toward his goal of gaining a "working knowledge" of all areas of the Law School during his first year as Dean.

Vorenberg encountered some problems in all the dorms, but the worst were in Wyeth Hall. "I was troubled by some of the rooms in Wyeth. The whole building seemed to me to be in bad shape." Vorenberg concluded that "important de-

cisions" would have to be made about Wyeth.

Jorge Vega, who is an R.A. in Wyeth, said the problems pointed out to Vorenberg included inadequate security, the presence of cockroaches and mice, and cracks in the walls caused by the nearby MBTA construction. Vega said no mice were spotted on the tour, but he told Vorenberg that one Wyeth resident had been nicknamed "the great white hunter" after catching five mice in one weekend.

"Architectural Peculiarities"

As for the Grad Center dorms, Vorenberg stated that "there were places where the maintenance people's cleaning was disappointing," hastening to add that in some areas, "the maintenance was quite good." Another "obvious problem is the use of the kitchens by a large number of people," said the Dean.

Vorenberg said he was glad he had made the tour, since he had not been in the Grad Center dorms for "several years," and had been in Wyeth only once or twice in all his years at the Law School. The Grad Center dorms were built while Vorenberg was a student at HLS and were "almost immediately recognized as presenting very serious problems." Vorenberg did note that the Grad Center dorms featured "some architectural peculiarities."

The Dean said he did not visit Hastings because he had been in that building several times in recent years.

Paul Upson, noting that he goes through the dorms "frequently," said the tour probably increased Vorenberg's awareness of some problems. Upson said that the Law School is gradually refurbishing Wyeth and the Grad Center dorms.

Dean Upton pointed out that the tour was Vorenberg's idea. "He called me and said he wanted me to set something up, so I did," she said. Upton's reaction was simple. "I thought it was terrific," she said.

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Behind the Scenes at the Ad Board

By Erich Merrill

Every two weeks or so, three faculty members, two administrators and three students meet for lunch. After eating, they talk about things that should be changed at the Law School, what should be done about exams, and sometimes about problems with financial aid. Though these topics are tossed about over a thousand other lunch tables during any given school year, the powers that be have made the discussion by this group of eight particularly important: They are the Ad Board.

Dean of Students Mary Upton described the Administrative Board as "the body that grants exceptions to regular academic rules and handles disciplinary proceedings." Upton, who is secretary of the Board, listed as additional duties of the Board the Berkeley exchange program, the hardship program for students who want to transfer from Harvard, and the hardship program for people from other schools who want to transfer to Harvard. The Law School faculty delegated these powers to the Board, according to Steven Bernardi, assistant dean for academic administration, who preceded Upton as secretary of the Board.

The current faculty members of the Board are Prof. Richard Parker, who is acting chairman while Prof. Frank Sander is on leave, and Profs. David Herwitz and John Hart Ely. Upton and Registrar Sue Robinson fill the two spots reserved for faculty members or administrators. The student members are Chris Caldwell, 3L, Ruth Fitch, 2L, and Eric Lindblom, 1L.

Flexible Processes

It's not too hard to discover what the Board can officially do, or who's on it. What's a good bit more difficult to find out is what a student who took a matter to the Board would actually encounter, since the procedure the Board follows is tailored to each case. There do seem to be two distinct modes of opera-

tion, one for dispensation and one for disciplinary cases.

A typical dispensation case begins when a student wants to do something which does not fit the core Law School curriculum, such as cross-registering for a course in another school. According to Herwitz, a student wishing to cross register would find himself channeled to the faculty member of the Board who deals with the members of that student's class. Parker is "chairman" for 1Ls, Ely for 2Ls, and Herwitz for 3Ls. Unless the course the student wants to take is completely unrelated to law, the chairman for that student's year can approve the cross-registration, Herwitz explained. The student need have no further dealings with the Board.

Upton said that some requests for exceptions, such as a request to take only nine class hours in a semester, must be presented to the full Board. In such a case, she explained, the student first has to present a petition to her, which she then takes to the Board for approval. The student does not appear at the meeting of the Board where the petition is considered. Once the Board reaches a decision, Upton writes a letter to the student telling him of the decision.

Popular Ignorance

How does a student know whether he will have to present a petition to the Board? The answer to this question reveals the common-law nature of the Board. Herwitz indicated that the Board members rely largely on precedent to decide whether a dispensation case should go before the Board. "Some of [the rules determining what cases the Board must hear] are written down somewhere or other, and maybe a large number of them aren't."

Conversations with several board members made it clear that, unlike the relatively narrow range of procedures a student is likely to encounter in a dispensation case, the options in a discipline case are numerous. The Board bases its choice

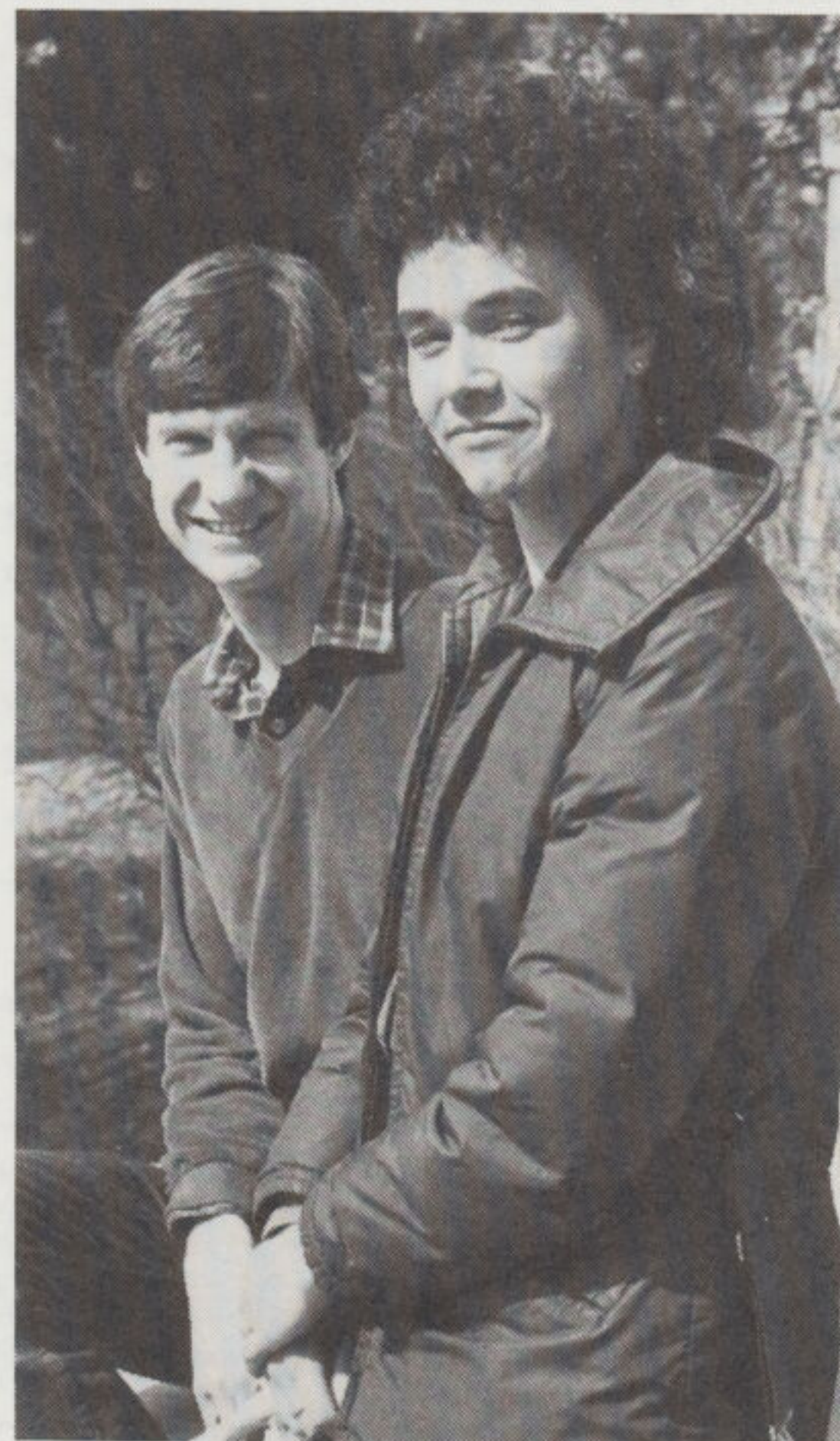
on such factors as the seriousness of the offense, whether there is a dispute over the facts, and whether the Board has been confronted with a similar violation in the past.

One of the first decisions the Board has to make is whether to institute a formal disciplinary hearing. The Board's rules of disciplinary procedure, a copy of which, according to Upton, is given to any student involved in such a proceeding, provide that "[t]he Board shall initiate formal proceedings by a written charge which explains the nature of the disciplinary infraction. Such charge shall issue only if the Board believes it reasonably likely that the charged infraction can be established by clear and convincing evidence."

Formally Careful

Caldwell explained that the Board is cautious about beginning formal proceedings at least in part because bar applications often include a question about disciplinary

(Continued on Next Page)



E.M.

Chris Caldwell, 3L, and Ruth Ellen Fitch, 2L, student members of the Ad Board

Deciding on Discipline, Dispensation

(Continued from Previous Page) proceedings which must be answered by the Dean. Even if the outcome is in the student's favor, the Dean must list any proceedings in which the student was brought before the Board. Thus, the Board prefers in some cases to proceed informally, perhaps issuing an informal letter of reprimand, which need not be reported on the application. A recent instance of this informal proceeding involved one student who loaned another law student his ID. The Board did not institute formal proceedings, but Caldwell said the student "didn't get off scot free."

Conversations on the Record

Bernardi described what might happen in cases of formal disciplinary proceedings. "Let me give you two cases; case A is one where the facts are clear. Assume that the Board hears from a member of the faculty that a student's third-year paper has raised a question of plagiarism."

The professor who received the paper would take it to Upton, Bernardi said, and she would notify the chairman of the Board. Some members of the Board would talk to the professor, look at the paper, and report back to the Board on what they found. If the Board decided to issue formal charges, the student would be notified and interviewed about the incident, probably by the chairman and secretary of the Board.

Bernardi said that if the student admits the paper is plagiarized the Board will not hold a hearing as part of the disciplinary proceeding, since the facts are not in dispute. "There's nothing to have a hearing about," he said. However, the student can appear before the Board to explain why he plagiarized, and most students take advantage of the opportunity to do so.

"Case B involves a factual dispute, such as would often arise in a financial aid case, where someone thinks there has been a misrepresentation on the application

form." Bernardi said the Financial Aid Committee would refer the matter to the Board, and conferences similar to those in a plagiarism case would be held with Board members, the student and Committee members.

"If the student denies the misrepresentation, the Board will hold a hearing, at which the student can either fly solo or be represented." Probably some Financial Aid Committee members would be present. "Normally those hearings are informal," Bernardi said. "They are formal in that there is a record, a summary statement by the chairman on where things stand, and an opportunity for an opening statement by the student, but they soon become very conversational. There is no formal argument and rebuttal; the hearing becomes very much a question and answer session."

Once the hearing is over, the Board retires to reach a decision by majority vote, Bernardi said. If it decides there was an infraction,

it may impose whatever sanction it feels is appropriate, with expulsion available as the ultimate punishment. The Board must get an approving vote from two-thirds of the faculty before it can dismiss or expel a student, however. A student who is dismissed may apply for readmission at a later date whereas an expelled student is banned from the Law School forever. Bernardi estimated that the time from receipt of a complaint to final decision varied from "a few days" where no factual dispute was involved, to two or three weeks for a more complicated case.

The decision reached by the Board is for all practical purposes final. In its most recent delegation of power to the Board in 1976, the faculty limited appeal in discipline cases by providing that "the Faculty shall first vote on whether the Board's decision raises such important and novel issues of policy or

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Legal Aid Fights SSI Payment Delays

By Marisa Manley

The Harvard Legal Aid Bureau hopes to receive a decision within the next month in its first class action suit. Bob Morton, 3L, has filed a motion for summary judgment, seeking sanctions against the Department of Health and Human Services and attorney's fees.

Morton began work on the action last year. It centers around government delay in determining eligibility for disability payments. Two federal benefit programs are involved: Social Security Disability Income (SSDI, Title II) and Supplemental Security Income (SSI, Title 16). The programs are intended to aid those unable to earn even a subsistence income because of a disability. However, bureaucratic delay in determining eligibility has made this assistance unavailable even to those who meet the government's definition of disabled.

After a person applies for disability payments, she or he must usually wait two to three months for an answer, said Morton, "and applications are routinely denied." The applicant must then request a reconsideration; this too is routinely rejected, according to Morton, but only after two to three months of processing. At this point, after two denials and up to a six month delay, an applicant may request a hearing before an administrative law judge.

Morton's suit focuses on eliminating the delay in getting a hearing. The governing statute requires that a hearing be held within a "reasonable time," but Morton stated that six months can be expended in getting a reconsideration, up to eight months more for the hearing itself, and an additional four months for a decision. Then another several months may go by before the first benefits are received.

According to Morton, over 60 percent of those who persevere through the hearing stage are found to be eligible. "They deserve the benefits. We're not talking about

a lot of last-ditch efforts. But the other 40% also deserve at least a hearing, the right to know."

The Department of Health and Human Services and the Social Security Administration, two defendants in the case, are currently operating under a preliminary injunction requiring hearing deci-



Erich Merrill

Bob Morton, 3L

sions to be issued within 165 days of the hearing request, but there are no penalties for failure to comply. In his request for permanent relief, Morton has asked that the government be required to issue hearing decisions within 120 days. In the event of non-compliance, the applicant would receive benefits until a decision issued.

Morton said the class has law and equity on its side. The same issue has been litigated in other jurisdictions with positive results, he added. Morton said two standards have been used to limit administrative delay. One is "hearing time." In interpreting the words "reasonable time" in the governing statute, a court may order the administration to hold a hearing to determine eligibility to receive disability payments within a fixed time. The second standard used is "decision time." Under this the administration is required to issue a decision on eligibility within a fixed

time. The "hearing time" standard was used in a 1978 First Circuit case that applies only to the district of Maine, said Morton, but "decision time" is the better standard and is used by the more recent cases. Morton prefers the "decision time" standard because it requires less intrusion by the courts. It lets the administration decide when to hold a hearing and how to schedule other administrative events. "And," said Morton, "the decision time standard is better for the applicant — under the other, the administration could hold a hearing and delay issuing a decision forever." The sanction requested — interim benefits in the event of failure to meet a "decision time" deadline, has similar benefits of minimizing judicial intrusion, said Morton.

Morton has requested \$21,765 in attorney's fees which, if awarded, will be given to the Legal Aid Bureau. He is relying on the Equal Access To Justice Act. As only two decisions under the Act have been

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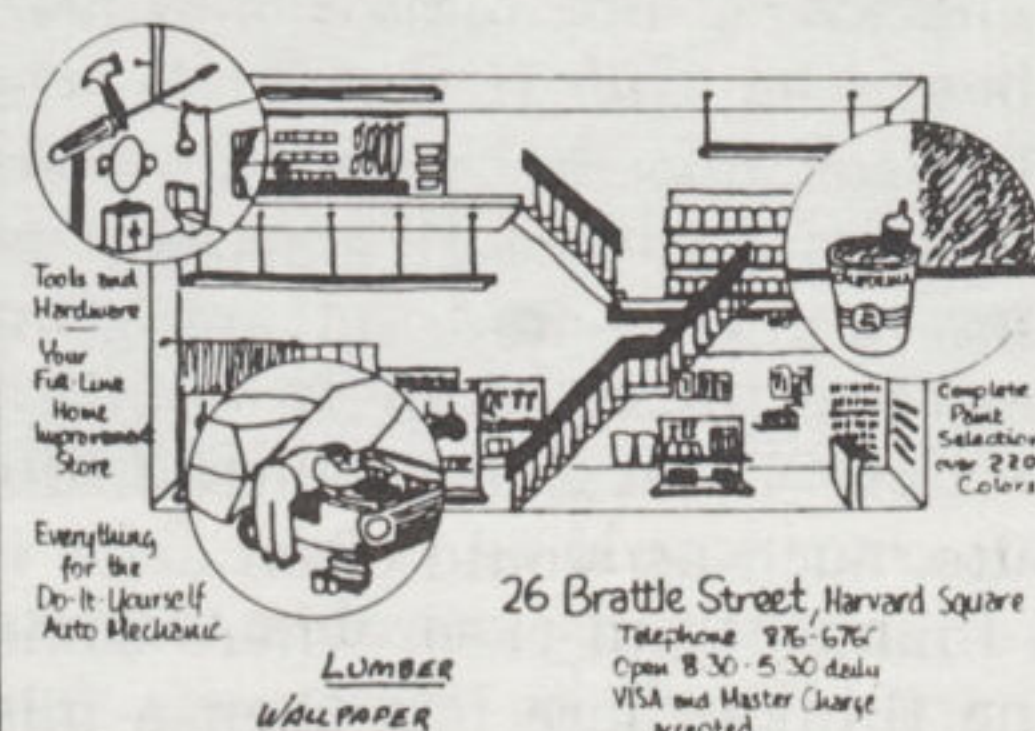
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A Once-in-a-Lifetime Opportunity

Brad Hudson

"I'm home," I called, back from another grueling session of Civil Procedure. "Any mail for me?"

"Just some letter from Washington, D.C.," replied Janet, buried in her next day's lesson plans. "I didn't know you interviewed with a firm in Washington."

"I didn't," I mused, tearing open the envelope. My pulse quickened as I read the letter's opening phrases.

As your President, I am calling upon you to make a most unusual sacrifice. Not the kind of sacrifice that a national emergency might require of you or your children or your grandchildren to protect our shores from invasion. I pray that will never happen — but I still must ask you to volunteer.

Volunteer? Gee whiz, I hadn't even registered. But I gathered my courage, ready to make whatever sacrifice the president required for the good of the nation. As I read on, I sank to my knees, overcome by emotion. "Janet," I gasped, "this letter is from the president of the United States."

"Ronald Reagan?" She eyed me suspiciously. "I thought he was busy swimming in Barbados. What does he want with you?"

Exclusively for Me

Jeepers! I was so overwhelmed that I could barely speak. "President Reagan is personally inviting me to join his *exclusive* club."

"Let me see that." She grabbed the letter out of my hands, gave it a quick glance, then slowly shook her head. "It's just a form letter printed up by some computer. Somebody probably bought a few mailing lists and sent out thousands of these. I knew that gift subscription you got to the *Wall Street Journal* would be trouble."

I indignantly snatched the letter back. "Don't be ridiculous. Look what it says right here: *Believe me,*

I'm not asking everyone to join this club — only proud, flag waving Americans like you who I know are willing to sacrifice to keep our nation strong. You're just jealous because the president didn't send you a personal invitation."

"Personal invitation," she scoffed. "If it's so personal, how come he sent it to our old address in California?"

Reagan Blameless

"There you go again," I snapped, "blaming President Reagan for everything. It's not his fault — he inherited the Postal Service from past administrations. They probably didn't deliver the change of address card I sent him."

She sighed. "Well what's this sacrifice that he keeps talking about?"

"That's the best part," I announced. "All I have to do is give up \$120 dollars per year as dues. I know money is a little tight right now, but like the president says: *Sacrifice is what made this country great.*" Tears filled my eyes. "Imagine, I can make a sacrifice to keep America strong and belong to an exclusive club — both at the same time."

"If it's so great, let him sacrifice," she retorted. "Don't you get it? — that letter is just a slick advertising gimmick to raise money for Republican senators who are scared to death that Reaganomics will cost them their jobs in November. Besides, since when are you a flag-waving American?"

I had to talk fast. "I would be," I pointed out, "but I don't have a flag. But President Reagan will send me one if I join his club. And golly, look at all the other neat stuff I'll get if I join: the president's personally commissioned Medal of Merit, a lapel pin, a membership card, an exclusive newsletter and personal letters from national lead-

ers — maybe even Ed Meese! But the best part is that President Reagan will place my name on his Honor Roll of Americans, to be kept with his permanent Presidential Papers forever."

Budgetary Rings

"Very impressive," observed Janet, "but they left out the secret decoder ring." She walked over to a bookcase and pulled out a large volume filled with ledger paper, precariously balanced on the top shelf. "I've been trying to keep this from you until now," she confided, "but you leave me no choice. It's called a budget. I know this is new to you, so I'll just hit the high points — think of it as 'Family Finance in a Nutshell.'"

"Your tuition is going up over \$1,000 next year," she explained, "and because we are both graduate students, under the proposed budget neither of us will be able to get a GSL. Even worse, the private sector hasn't seen fit to use its tax reductions to hire either of us for the summer. And the recession isn't exactly boosting our parents' abilities to help out."

"Gee whiz," I pleaded, "I can pay in monthly installments of \$10 and the president won't charge me any interest."

Silence.

"Why don't we just deficit spend?" I suggested. "Gosh, if President Reagan can do it for 100 Bs, I'm sure no one would begrudge us a measly \$120."

Sometimes Janet can be very unreasonable — she took away my checkbook and BayBanks card. But golly, it just kills me to miss out on this once in a lifetime opportunity. So I just have to ask: Has anybody out there got a spare \$120 that I could borrow? I'll even part with the lapel pin for collateral.

**Welcome to New York,
John Harvard.
Have You Considered Joining
The Harvard Club
Of New York City?**



On Friday, April 23, members of the Admissions and Membership Committees of The Harvard Club of New York City will be in Cambridge at the Kresge Grill at the Business School and at the Harvard Faculty Club at 20 Quincy Street between 11:00 A.M. and 5:30 P.M. to make it easy and convenient for Faculty, University Officers and graduates to become a member of the Club.

Graduates of the Class of 1982 will be proposed, seconded and interviewed in one step for membership in the club. Requirements for supporting letters, etc., are waived for this event for 1982 graduates. Information about the club will be available and Committee Members will try to answer any questions you may have concerning membership.

The Harvard Club of New York City can be a most comfortable and convenient amenity that will make New York more enjoyable. It offers a central location in the Grand Central area, with spacious dining rooms, bedrooms, bar, lounge, library and extensive sports facilities.

If you cannot be in Cambridge on April 23 and are interested in membership, please write or call Ms. Thelma Leventhal, Secretary to the Admissions Committee, Harvard Club of New York City and request information for regular membership procedure, rates and brochures.

DATE: Friday, April 23, 1982

**PLACES: Kresge Grill
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TIME: 11:00 A.M. to 5:30 P.M. (No appointment necessary)

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Legal Services Center

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Vorenberg said he is optimistic about reaching an agreement with GBLs on the funding. "It makes sense to us," he said, "and it helps them. GBLs has always thought it was good for the level and quality of services to have teaching going on in their facilities." If an agreement is reached, Vorenberg will present it to the faculty for approval.

By avoiding closing down the legal services program altogether, HLS also hopes to gain time to seek new sources of funding. Associate Dean Lance Liebman said the School would explore the possibility of funding by a foundation. Vorenberg said it was possible that federal Department of Education money might be available as well.

Preserving Momentum

LSI Director Prof. Gary Bellow said he was very happy to know that the experience gained from the LSI's two years of operation will not be lost. "My hope is that this will be the first step in moving in the direction of what we've proposed" — the establishment of a Legal Services Center. By preserving as much as possible for next year, he said, there will be time to continue the debate over the direction of clinical education in the future.

Dean Vorenberg echoed the same sentiments, saying, "It is important not to lose the direction and momentum we've developed." He thinks the new center could help carry on and expand the LSI's work in several ways. For example, he said he thought if the new five-hour Legal Profession course is successful that it could become a standard part of the curriculum. In addition, the center could serve as a base for "people with special clinical interests they want to pursue," he said.

The cutbacks will limit some clinical placement offerings for next year. The Introduction to Trial Advocacy course, for instance, which

in the past has offered full-time placements with the LSI both terms, will only be offered in the fall term. But, to offset this loss in part, more part-time placements will be available through other courses such as Legal Profession and Poverty Law. The result is that more placement positions will be available next year than were offered this year.

The increase in part-time positions will "enrich" the experience the new program will offer, Bellow said, because it will bring more students in and will involve more faculty members in the clinical work as well, which has been a goal. He said he thought it would be good to have students with full- and part-time placements working together. The additional part-time placements will allow students who want clinical experience without a full-time commitment to gain from working at the center, he said.



Sports Quiz

NOTE: This week's quiz deals with sports figures who have last names the same as various officers and leaders in religious organizations.

1. A defensive lineman for the New England Patriots, this man has been one of the few bright spots on an abysmal defensive unit. Who is this player?
2. The first black golfer ever to qualify for the Masters, this man is now an active and successful participant on the PGA Seniors Tour. Who is this man?
3. Although only a back-up player now, this running back for the Detroit Lions is expected to fill some very big shoes in the event of an injury to Billy Sims. Who is this athlete?
4. A punter for the Chicago Bears as well as a wide receiver, this man's leg has been used a lot due to the feeble offensive efforts of the Bears in recent years. Who is this player?
5. Starting for the Washington Redskins as their tight end, this mammoth of a man not only has a good pair of hands but is recognized as one of the best blockers at his position in the NFL. Who is this man?

(Answers on Page 14)

Great Moments in the Law

Vive la Difference!

Exchanges of livestock of different sexes. — For purposes of this section, livestock of different sexes are not property of a like kind.

— 26 U.S.C. § 1031(e)

Translation Impossible?

Apparently recognizing that much of what passes for normal conversation in government is incomprehensible to outsiders, the City Planning Commission has come up with an unusual solution.

In a bound copy of its long and detailed proposal for rezoning midtown Manhattan, the commission provides a running translation. On the right-hand page is the "statutory text" of proposed regulations. On the left is a rendering of the regulation in "plain English."

A few people who read the document became worried when they noticed that many of the left-hand pages were blank. They could not tell whether it meant that the original text was sufficiently clear or that it was impossible to express it in plain English.

— *New York Times*,
April 11, 1982, p. 33

BAR EXAMS AREN'T LIKE LAW SCHOOL EXAMS

Knowing how to analyze complicated essays, confusedly combining several fields of law, and writing coherent, logical and consistent answers thereto, can make the crucial difference in passing the Bar Exam. Why not get the feel of 16 very difficult Bar Exam questions before the July, 1982 Bar Exam? Thousands of students, for the past 40 years, have been convinced that the approach-analysis-and style techniques and methods they learned at **THE KASS PROBLEM ANALYSIS CLINICS** were essential to their success on the Bar Exam.

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An Unfair Advantage

We think the Administrative Board has made the right decision in prohibiting the use of word processors in exams.

The chief argument against allowing word processors is their cost, which runs upwards from \$2000. By contrast, the typewriters with which the computer users draw parallels can be had for several hundred dollars; and many if not most students already own typewriters. And while some students prefer to type their exams because they can put things down on the page more quickly, this advantage does not compare with the word processors' text-editing capabilities which allow a user to rearrange paragraphs and pages, make deletions, insertions and corrections, and still yield a letter-perfect final copy. If students were also allowed to use the memory and indexing powers of the computers, the payoff in organization would far exceed the benefits gained by simple typing.

There may well come a time when word processor prices drop to the point where any student can afford one, as happened with pocket calculators, another exam aid once banned at many schools. Until that time comes, it would be unfair to limit the advantages word processors offer to the few who can afford them.



There's Music in the Ear

Springtime is here and along with the flowers, Sony Walkmen seem to be sprouting up everywhere. It was the Japanese who brought us the portable FM-cassette stereo system which has filled our parks, streets and busses with music (though some refuse to call it that), and so it seems only appropriate that it is the Japanese who have brought us the (quieter) replacement for the big music boxes: the miniature FM-cassette stereos *with headphones*.

Looking out our office window we see joggers pass by on Everett Street keeping pace with (to us) inaudible strains. And you can see those tiny earmuffs on the ski slopes, on the sidewalks and in the elevators. Students report that their dorm janitors arrive in the mornings singing off key along with the radio's tune; Law School secretaries block out the chatter of nearby typewriters with their little earpieces. And apparently some students find their Walkmen effective in drowning out the constant drone of conversation in the Langdell Reading Room. Faint notes could even be heard from the headphones of a proctor for Prof. Vagts's December Corps final. We have not seen them in class yet, but perhaps that will be next. We can think of a few courses for which we could recommend them.



HARVARD LAW RECORD

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Fenno

Fenno rapped sharply on Prof. Snodgrass's office door, in desperate need of legal advice. He needed a five-letter word for collateral estoppel for his crossword puzzle. When he got no response, he tried the door, found it unlocked and let himself in to await Snodgrass's return.

Fenno couldn't help but try out the plush, comfortable chair that sat behind the massive, wooden desk. As he swung his feet up to rest them on the edge of the desk, he knocked a bulky manuscript into the wastebasket below. Before he could retrieve it, he heard a barely-audible knock at the door.

"Come in," he bellowed, effecting his best Kingsfield persona. A gaunt face with hollow cheeks and three days' beard stubble peered around the corner. Fenno recognized him as the guy who had hoarded one copy of each volume of the Federal Reporter while Fenno's friends were trying to do Ames.

"Excuse me," said the face. "I've come about an extension on my third-year paper."

"Have I ever seen you before?" blustered Fenno.

"Well," the face timidly explained, "I did come in once before about a topic, but I don't think you ever looked up."

"I'm a busy man," snapped Fenno. "Why do you need an extension?"

The voice had shrunk to a whisper. "Well sir, you never returned the first draft I submitted in October."

Fenno grabbed the manuscript out of the basket. He glared at the title, "Constitutional Precedents for Applying the Hearsay Rule to Rona Barrett [sic]," and hurled it at the face. "Is this your manuscript?" he sneered.

The face grew noticeably whiter. "Yes."

Fenno began to pace around the office. "Well, I do have a few comments. First, it's much too short. You couldn't even begin to treat this topic adequately in less than 90 pages. And at a minimum you must have twice as many pages of footnotes as text. And remember, the only sure way to an A is to quote your adviser's research at least once every other page."

Fenno grabbed the face by the collar. "You have an extension of exactly 26 hours," he hissed. "If it's not in by then, I'll see to it that you work at Dunkin Donuts for the rest of your life."

The face let out a whimper, then quickly disappeared. Fenno sighed in relief — his many years of observing professors in the classroom had finally paid off.

Then Fenno smiled. He'd thought of the answer for another of his puzzle's clues: a four-letter word for third-year papers.



Letters to the Editor of the Record

Frankfurter's Benefactor No Secret

To the Editor:

Your editorial [RECORD, March 19] concerning the "clandestine" relationship between Justice Louis D. Brandeis and then Prof. Felix Frankfurter, with these words: "Brandeis jeopardized his own ability to think critically and independently about the legality of statute and government actions," your news caption: "Doing Good by Stealth" and the critical views of some of the professors interviewed by you, distress me.

First let me comment on the element of "exposure" or the "discovery of important, heretofore unknown secrets" as news items and reviews have described the payment of Justice Brandeis of small sums to Prof. Frankfurter for services and disbursements in public causes where their views were identical or closely similar. There never were payments by "stealth" nor were they "unknown" or secret. When I was a student in 1929-30 of "Federal Jurisdiction," a seminar given by Prof. Frankfurter, he told me of the work he was doing for Justice Brandeis and the moneys he received, and the other students in the seminar also knew of these payments.

But more important is the disclosure in Justice Brandeis' will. The authoritative work on Brandeis by Princeton's Alpheus Thomas Mason entitled *Brandeis: A Free Man's Life*, was first published in 1946. As shown on pages 637-639, two days after Brandeis' death on October 7, 1941, his will was admitted to probate and it shows that the bulk of his estate went to public causes: the Survey Associates "for the maintenance of civil liberty and the promotion of workers' education in the United States," the University of Louisville in the city where Brandeis was born, and the Palestine Endowment Fund and Hadassah for the "upholding of Palestine as a national home for the Jewish people." In his will (a public document open to anyone to see) he expressed the hope that "[during] the balance of the calendar year in which my death shall occur and one full calendar year thereafter, my wife and daughters shall continue to give to the *persons* (emphasis supplied) and causes to whom and to which I have contributed sums as large as I have given in the calendar year preceding my death." I have never heard of a single instance where Justice Brandeis was unable to think critically and independently about the legality of statutes and government actions.

It was never a secret that Brandeis contributed moneys to individuals, including

relatively small amounts to Prof. Frankfurter, and larger amounts to the public causes they shared. Those contributions were in no way violations of even the highest legal and ethical standards. And certainly in no way did they even remotely deal with any issue before the Court. Brandeis used his estate, as he had used his moneys during his life, for public causes and for individuals who joined and helped him in those causes. As Prof. Mason wrote: "He thus retained that strength of independence, that freedom of individual action which were for him life's basic values." He did not become a legal robot when he went on the Supreme Court. To him, as to his friend and colleague, Justice Oliver Wendell Holmes, Jr. "To Live is to Function." Brandeis' life was not only that of a great lawyer and justice but of a great human being of deep sensitivity and sympathies, particularly when what was involved was the public good, education and a Jewish homeland.

I write this notwithstanding Murphy's pseudo-modest interview entitled "What's All the Fuss?" Compare the publisher's explanation of "Stealth" and the "Exposure or Uncovering of Important Secrets Between Justices" with known facts.

Lewis H. Weinstein, '30
Boston, Mass.

A Good Word for Word Processors

To the Editor:

As a typing enthusiast who lugged a Smith-Corona to three years of HLS and two state bar exams, I was curious that HLS should consider drawing the technological revolution line at word processors.

If the Law School is concerned with the recall powers of a word processor, the solution is simple: Require the student to bring the machine to the exam with a blank disk. If however the concern really is the allegedly unfair advantage a processor gives a student, there is nothing unique about the situation that should require a ban on the processors. Some people have faster and more legible handwriting than others. Some people type quickly. Some people bring Correcting Selectric II typewriters to exams. Some people have access to word processors at the offices of the various law reviews and journals to compose third year papers or take-home exams. Some people have friends who are professional typists. The final product is always going to depend on the resources and abilities the person working on it has to devote to its appearance, and it will not be equally easy for all students to achieve the same high standard.

When graduates trade exams for legal briefs, they will find themselves with the same advantages or disadvantages; if exams are indeed related in some way to one's ultimate competency as a lawyer, it is ridiculous for the school to insist that a student not use the tools to demonstrate his or her abilities that will be available to the practitioner. I share a secretary with two other associates in a small firm where back-up help can't be relied on. By being the only typing attorney, I can produce pleadings and orders far faster and with fewer errors than other attorneys can in emergency situations. My next step (as you can probably guess) is to receive training on the firm's word processing equipment. Fortunately no one has to worry about my being "fair" to opposing attorneys by using machines instead of other people to do legal writing.

I sincerely hope that the Law School decides to encourage students to use word processors instead of penalizing those who do regularly work on them by forcing them to use less familiar equipment at exam time.

Brooke Smith, '80
Houston, Tex.

What's Wrong With Snobbery?

To the Editor:

This letter is prompted by your March 12, 1982 issue which contained a letter from a former student (also former member of your staff) complaining about secret societies at the Law School. An article referring to student protests against cutbacks in federal subsidized loan policies for student tuition and expenses also sparks my reply.

Your former staff member commended the LAW RECORD for exposing secret societies or quasi-secret societies apparently flourishing at the Law School. I did not belong to any such societies. When I was at the Law School I didn't even know they existed, and I probably would not have been welcome as a member of them had I known of them and tried to join. Your writer was extremely critical of the people who may belong to such organizations. He characterized students who would belong to a secret or quasi-secret organization as "petty," "immature" and people who would stoop to invent "specious distinctions" — people who are comfortable with "the noxious and tyrannical power of snobbery." Your writer suggests that such attitudes should be met with "exposure and derision."

Any criticism can be voiced (save defamation) as part of our exercise of free speech. I don't quarrel with your writer on that

(Continued on Next Page)

Letters to the Editor of the Record

(Continued from Previous Page)

score at all. Neither do I quarrel with people who want to belong to secret or quasi-secret organizations. There is a right to assemble and associate too. If we look at the accusation that such people are guilty of snobbery, one may ask two questions. The first one I propose is: what's wrong with snobbery? It's just another form of vanity or pride. One man's snobbery is another man's confident satisfaction with his achievements. Besides, if the organizations are secret, the snobbery becomes secret snobbery. If snobbery is supposed to excite envy in the hearts of those not fortunate enough to belong to the restricted group, how can that purpose be met if the existence of the secret group is never known? How can you be envious of not being permitted to belong to something you don't know exists? It would therefore appear that the secrecy negatives the snobbery. I don't know what effect a quasi-secretive group has on snobbery. I guess that's because I don't know what it means to be quasi-secret. Is that like being quasi-pregnant?

Let's not be too hard on snobbery. It is one of the major engines driving commerce. Where would Calvin Klein be if snobbery did not exist? What about the company that embosses its ties with that CM in the front where you can see it instead of in back where it wouldn't mar the design? What about people who allow it to be worked into the conversation that the law school they attended was Harvard? When people volunteer that they think Harvard has the best law school in the country, who disagrees? I never do. If somebody wants to wax proud on the fact they were invited to join the Pow Wow Club, who am I to begrudge them the joy of such associations? It also occurs to me that your critical writer overlooked one more arrow he could have let fly. Isn't naming a club the Pow Wow Club and then (presumably) not having any Indian members, a kind of ethnic slur? Horrors!

Your writer also overlooked the fact that without these kinds of organizations at the prestigious law schools in the country the perpetuation of the "old boy" network will not be facilitated. But, I don't object to that either, even though I never got connected with it.

Probably my overly docile attitude toward all of these social injuries is a result of having spent too many years and being too well cornfed here in the Midwest. We small town lawyers soon reconcile ourselves to the fact that there aren't any prestigious organizations to belong to — secret or otherwise. Anybody with the money can get into the local country club, but all that does is condemn you to pay too much for golf and booze which you can get cheaper at the public course and the local bar.

While I am being negative toward idealism, let me add that I am against the subsidized student loans too. I don't see why clients of mine should have to pay 15 or 16 percent to buy a house while somebody can borrow up to \$15,000.00 to go to Harvard Law School at seven percent. Does it occur to the student body that one of the reasons tuition is so high is that the people who set the tuition figure realize there are sources of easy money available to those who are going to pay the tuition? There is a tired old joke about Jay Gould travelling in a Western State and entering the train dining car only to be charged \$1.00 for a boiled egg for breakfast. When he asked if eggs were rare in the area hence the high price, the waiter replied that eggs were plentiful enough, but Jay Goulds were mighty scarce. I suspect that one of the reasons why college tuition in general is so high is because of the easy money government loans. The Law School wouldn't be charging you what it does if it didn't believe there were at least 1,500 of you with the money to pay. Tuition was around \$1,500.00 a year in 1964. I would guess it's gone up faster than inflation since then, though I don't have any figures to support that speculation. If it has, maybe I am pointing to one of the main reasons.

Good luck to all on your finals.

John E. Fick, '65
Decatur, Ill.

Left in the Dark

To the Editor:

After reading "Students Lobby Against Death Penalty" (by Joyce Tichy, RECORD, March 19, 1982), I realized that the article had failed to elaborate on, or even to mention why Tim Kaine, 2L, and Leto Copely, 2L, along with their cohorts, are "against the death penalty." The article states that "If we're trying to teach that killing is wrong, the death penalty isn't the way to accomplish that goal," that "students have done . . . [research projects on] the *relative social costs* of death sentencing versus life imprisonment" [emphasis added], and that "Kaine . . . sees the matter as both a legal and a moral issue." However, nowhere does Ms. Tichy explain why the death penalty isn't the way (or at least *a way*) to accomplish the goal of teaching that killing is wrong, describe the relative social costs of death sentencing versus life imprisonment, or delineate the pros and cons of the "legal and moral issue."

Frankly, saying that students are against the death penalty is as remarkable as saying that the Navy has ships. Ms. Tichy would do the cause of Mr. Kaine, et al. more good were she to expand upon the philosophy behind his efforts. As it is, she leaves

us in the dark, and hence does a disservice to Mr. Kaine and his group, and to the readers of the RECORD.

Margaret S. Proctor, '79
Wilmington, Dela.

Should Have Gone to B School

To the Editor:

I read with interest (much of it due about now) that tuition is going up once more (RECORD, March 19). Your story also reports that the \$51,540,000 endowment returned \$3,513,000 in income. That's about 6.8%.

I don't pretend to be as brilliant as a Boston banker, but why isn't the endowment getting 15%, like every other good investor? The return would be \$7,731,150, which would mean enough to pay the increase and even a rebate of a thousand or so to each student.

Maybe if I'd gone to the Business School I would understand.

Daniel A. Hershman, '81
Miami, Fla.

(More Letters Next Page)

Our Policy Regarding Letters

The RECORD's policy on letters is simple. We read all of them. We print most of them, subject only to editorial discretion. We encourage letters on any subject, and particularly concerning subjects which have been covered in the RECORD.

Letters should be typed and must be received by 5:00 P.M. the Tuesday before each issue. We prefer letters of no more than 700 words. Letters should be addressed to the RECORD rather than to third parties. Where there are compelling reasons, requests to have letters printed anonymously will be considered, but in no event will the RECORD publish letters by writers who have not identified themselves to the RECORD.

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Letters to the Editor of the Record

PLO Presence Protested

To the Editor:

On April 25, the PLO is coming to Harvard Law School. A representative of the organization whose charter calls for the destruction of Israel has been invited to address the American Indian Law Conference on Indigenous People's Rights. HLS is listed as a supporter of the conference and is providing funds. The Harvard Jewish Law Students Association strongly objects to the association of HLS with the PLO, and to the legitimacy and respectability which the Law School is conferring on a group which deems "entirely illegal" the establishment of the Jewish state.

In no way do we wish to infringe the First Amendment rights of the American Indian Law Students Association or of those they have decided to invite. In fact, we fully support the holding of a conference on indigenous people's rights. But we deeply regret that the conference sponsors chose to ignore the sensibilities of many HLS students by offering the imprimatur of HLS to the PLO. While we presume that no student would deny the right of a Grand Dragon of the Ku Klux Klan and of the Ayatollah Khomeini to speak freely, we would expect strenuous opposition if HLS were to welcome them and hence give them acceptability.

The participation of the PLO in the conference is particularly inappropriate since there is only one other non-American Indian group to be represented — the Australian Aborigines. Why are groups such as Black South Africans, Basques, Kurds and Armenians not included? Surely we should not be left to learn lessons on respecting rights from the PLO, the group which pioneered the practice of taking "credit" for massacring school children and Olympic athletes.

The PLO has never renounced its charter, which proclaims that "armed struggle is the only way to liberate Palestine" (Art. 9) and "rejects every solution that is a substitute for a complete liberation of Palestine" (Art. 21). Palestine here refers to *all* of what is now Israel and Jordan. PLO head Yasser Arafat reaffirmed the charter's principles as recently as January 3, 1982, in a PLO rally in Sidon, Lebanon.

HLS ought not to be connected with such a group. We hope that others who share our indignation will disassociate themselves from this grant of legitimacy.

**The Harvard Jewish Law Students
Association**

... And Defended

To the Editor:

It has been brought to our attention that the inclusion of Deena Abu-Loghod in the 1982 American Indian Law Students' Association conference has caused some concern within the Law School Community.

At the outset, let the position of AILSA/Harvard be clear. Our conference will encompass two primary purposes: (1) to educate non-Indians about issues which are fundamental to the political and cultural survival of Native Americans, and (2) to develop viable and effective strategies for the legal defense of the rights of indigenous people in both domestic and international fora.

To achieve these purposes, a number of individuals have been invited to make presentations, submit papers and generally involve themselves in the free flow and exchange of ideas and information. Many of the individuals that we have invited do not agree with one another in the area of political, legal or economic tactics, and frankly, that is of little importance to us. What is important is that this conference result in the development of certain legal strategies which may be utilized by those engaged in the defense of Native peoples' rights.

One strategy which is gaining increasing legitimacy and viability within Native American nations is the use of international law. For many years, lawyers representing Native nations ignored the availability of international law for the resolution of claims against other nation-states. In the past twenty-five years, substantial progress has been made by groups attempting to achieve international recognition and standing in international fora. Native Americans hope to learn from those successes, and Ms. Abu-Loghod represents one of those groups which has achieved a degree of success.

We, as Native Americans, do not feel compelled to accept all of the methods advanced by the Palestine Liberation Organization in order to invite one of their spokespersons to inform us about certain successes that they have achieved in legitimate international institutions. Nor do we as an organization feel compelled to endorse any of the methods advanced by *any* of the participants in this conference.

Our purpose, once again, is not to endorse one method of recognition over another; it is to provide a forum for the free exchange of suggested solutions to an intolerable problem — the denial of human rights, political sovereignty and self-determination to the indigenous peoples of the world. We would have preferred to have representatives from every indigenous group at our conference, but the time and budgetary lim-

itations in that proposition are obvious. We believe that we have done the next best thing. We believe that we have put together an important and timely conference that may benefit a group of people who have historically been legally and politically disaffected.

Our purpose in inviting Ms. Abu-Loghod, as with most of the other participants, is very specific. She is scheduled to chronicle the developments within the movement for Palestinian self-determination, and update the conference in reference to the successes and failures of the Palestinian people, as a non-state nation, within international legal and political fora. Perhaps by doing this, she will be able to prevent Native Americans from having to suffer the same mistakes and failures that others have made in the past. If so, we will be grateful.

One final point. This letter is not intended to represent an apology or a justification for our actions. It is an explanation, that is all. The "Indigenous Peoples' Rights in Domestic and International Law Conference" was planned by, and will be carried out by, Native Americans. The defense of the rights of indigenous peoples has entered a new era. For far too long Native people have allowed non-Natives to define how Native rights will be protected. No longer. If Indian people, as members of sovereign nations, choose to be enlightened by other members of the world community, that is our prerogative. If we choose to learn from the successes and failures of the Palestinians, or the Basques, or the Kurds or the Namibians, that is a decision for us to make, alone.

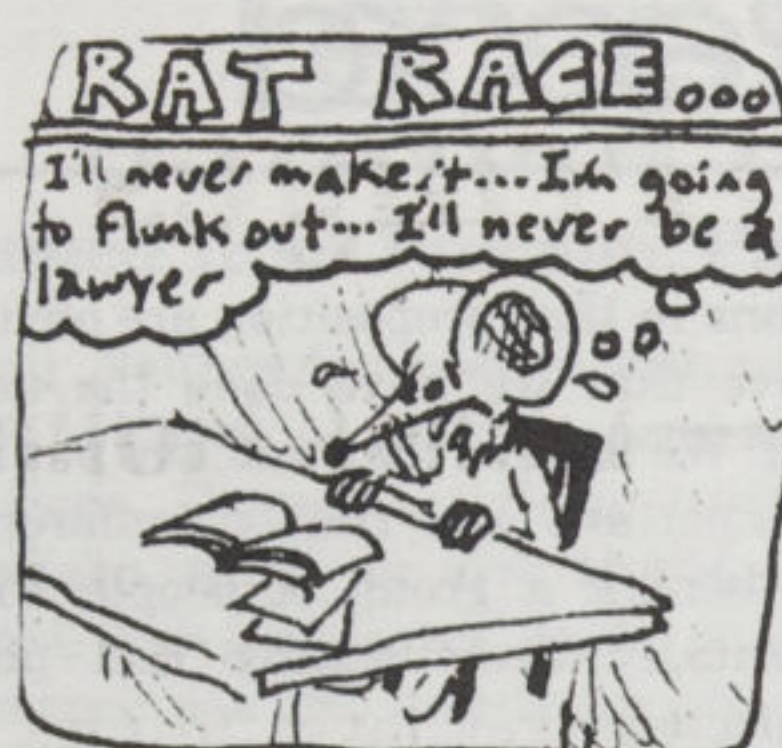
It is our belief that there are far too many urgent issues which require our immediate attention — nuclear destruction, environmental degradation, genocide, sexism, racism — to spend our time censoring those who may be able to provide viable solutions to some of these pressing issues. We have chosen to take the road of the free exchange of ideas by organizing this conference, and we hope that others will support us. That is where we stand.

**American Indian
Law Students' Association**



As the result of a confusion, literature on the conference said that Dean Vorenberg would give a welcoming address. In fact, he will not be speaking at the conference. — Ed.

Next RECORDS
April 23, 30
& May 7



By Mike Medina

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Class Action

(Continued from Page 6)

published, his case will help to establish precedent.

The published decisions were favorable to his argument, Morton said. "There are two particular twists: retroactivity, since the case was filed in March of 1981, and how student time should be valued." Morton argues that in this case student time should not be discounted because he has been permitted to act as lead counsel throughout.

Morton's decision last fall to file the class action resulted from frustration at the delay confronting his client, a woman with a substantial medical record and no possibility of employment, and from a note he read in his Ad Law casebook leading him to precedents in other jurisdictions.

The strategic move of filing the case as a class action has already paid off. The administration, afraid of the way judges can take over class actions, tried to moot the case, said Morton. After the first hearing last spring, an assistant U.S. attorney told Morton he would try to get Morton's client her benefits immediately. Four days later an administrative law judge called Morton and told him that his client had been determined eligible for disability payments, asking Morton if he would drop the case. Morton said he refused because the action was filed to serve the class. Morton believes that the final hearing in the case will be held by mid-May.

Corrections

The quotation attributed to Howard Gutman, '80, in the RECORD's story on Supreme Court clerkships (March 12, p. 4) was misleading as printed. The full statement referred to in the last line of the story was: "It is to Justice Stewart's credit that he does not consider law review membership to be the sole or overwhelming factor in the selection process."

As we noted several issues ago, Prof. Morton Horwitz's first name appeared incorrectly in an article in the Feb. 19 issue. In the March 19 issue we misspelled his *last* name. We regret the error and for what assurance it may give Prof. Horwitz, we don't know his middle name.

Sports Answers

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2. Lee Elder
3. Russell Pope
4. Bob Parsons
5. Art Monk

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Louis J. Hoffman

Neil Chayet, *Looking at the Law*, Rutledge Press, 446pp., \$14.95.

Are you a fan of legal junk food? Do you like far-out cases about weird situations? Do law professors' hypos turn you on? If so, then *Looking at the Law* may be just the book for you.

Neil Chayet is a former HLS student ('63) who practices in Boston. He is best known for his radio broadcasts on the law over the CBS radio network. Chayet provides his readers with interesting, provocative, brief accounts of a large number of cases courts have decided over the past few years. However, while he purports to act as a reporter on the state of the law, he does not achieve a completely objective view. Of course a certain amount of editorial bias is necessary, especially since Chayet is a former editor of the *RECORD*, but the bias is largely hidden. The reader feels manipulated by Chayet's choice of cases and means of presentation. After finishing a section or a case, the reader lacks a feeling that the issues have been explored meaningfully.

Catchy Questions

Particularly annoying is the book's style. The one-page briefs are all nearly the same length — presumably because they are taken directly from the scripts of the author's radio feature and were written to fit into a two-minute time slot. Besides the standard length, however, these stories seem to have an enormously homogeneous format. They start with a catchy question or statement, such as, "Can you collect for damages suffered from ESP?" Next is a description of the facts of the case. Then there is a summary of what the court said. Then a description of the counterargument or dissent. Next, there is (too often) the phrase "But

the majority ruled, and ..." followed by a trite conclusion. The pattern can get enormously tiresome.



Neil Chayet's 1963 yearbook portrait

The conclusions were especially troubling, because they often stated a questionable moral. For example, after a description of a conviction which was reversed because a lawyer was present but prevented from viewing the proceedings at his client's line-up, Chayet concludes, "So the police lost this line-up, and another convicted killer may go free because of it." The moral equally could be, "So the courts again affirmed the importance of the civil rights of all citizens, even criminals." Of course, neither is a balanced view, even though both are accurate. The trouble with the book is that the "two-minute" format promotes triteness and simply hides the author's biases. Not all of the author's opinions are as clear as his attitude towards the case above. This process discourages meaningful thought about and discussion of the admittedly interesting issues in these cases.

In addition, the cases that were chosen for inclusion provide the

reader with a sample of fun vignettes, but the choice is unbalanced. Chayet loves to pick cases from the fringes of the law. By isolating these decisions from the context of their precedential value and the cases on which they are based, the author often makes the judges' opinions even more incomprehensible than they are in fact. For the lawyer with a background, the unusual facts of these cases can be fun, but they may seriously mislead the lay person who has rare encounters with the law.

So, while the book is provocative and often humorous (especially in the last chapter), it could be of more use to the lawyer or law student than to a lay reader. This is ironic, since the book was obviously written for a mass audience. (For example, the dust jacket asks the provocative question, "Can you sue your astrologist?") The book can be fun, though, and it is prescribed for bed-time reading (no more than five minutes at a time to avoid overdoses) for only those types who can resist the temptation to shout back at the television set.



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Ad Board Bans Word Processors

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Dean of Students Mary Upton. Downer then contacted fellow Section II member Walker who had also used a word processor on his Criminal Law exam. Although Upton permitted the two to use the machines in their remaining exam, she referred the issue to the Ad Board to consider the future use of word processors.

As the time approached for the Ad Board to make its decision, Downer and Walker wrote the Board asking permission to address the Board and participate in its discussion of the question. The day before the meeting the students were notified of the site of the meeting and asked to come and "wait outside" for a chance to participate, said Downer.

To the surprise of the two 1Ls a proposal to totally ban the use of word processors had already been drafted and was under consideration at the meeting. "The first I had heard of any proposal" said Downer, "was when I walked into the room and one member of the Ad Board said, 'Well, what do you think of the proposal?'"

Fait Accompli

"That threw us off entirely," said Downer. "We thought it was going to be an open discussion. Not a single person there had any sympathy for our position. It was absolutely

clear that the decision had essentially already been made. They could at least have had the decency to give us a copy of the proposal beforehand, and let us know afterwards what their decision was. I had to find out from the Time reporter!"

"We should have walked in, looked at their prepared proposal, and said 'Why did you even invite us up here?'" added Walker. "I was interested in participating in their consideration of the issue in a more substantive manner. Essentially they told us 'Welcome. Do you have anything to say before we sign this death warrant?'"

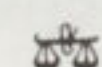
Downer and Walker felt that the machines do not give those who use them a substantive advantage over those who do not, and that their use should not be prohibited merely because of their cost. "Are you going to prohibit someone from using a better typewriter just because he can afford it?" asked Downer.

Members of the Ad Board disagreed. Eric Lindblom, also a 1L, commented, "I think there's a real advantage to using them. I used to use one at a former job and I know I could type faster and cleaner with one. If I could afford to get one, I probably would. I think there is a prejudice against messy papers. Maybe the answer is to ban typewriters altogether!"

Lindblom said that his major reason for favoring the ban on word

processors was their high cost. "Once word processors are readily available and affordable to all students I know that I, and I'm pretty sure about the other Ad Board members too, would be ready and willing to reconsider this policy."

The issue apparently has not arisen at other law schools according to Mary Upton, who spoke to administrators at Yale and Columbia.



Behind the Scenes

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is made under such other extraordinary circumstances that the Faculty must consider the matter." Appeal to the faculty is similarly limited in dispensation cases.

Upton emphasized the confidentiality of the Board's proceedings. Board members do not mention a student's name to anyone not involved with a case, and in fact seem reluctant to discuss any particular case even on an anonymous basis. Once the Board reaches its decision, a copy goes in the student's file which is kept by the School, but is enclosed in a sealed envelope which can only be opened by a member of the Ad Board.

Disciplinary cases are more interesting and emotionally draining for Board members, but Bernardi said that 90 percent of the Board's time was spent on dispensation cases during his tenure on the Board. More recently, that percentage has been even higher. According to Caldwell, "Last year was a wonderful year," because there were no disciplinary cases. Until the Board voted to bring charges a few weeks ago, there had been no such cases this year either. ❧

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This is the first installment of a two-part story about the Administrative Board. Part two will appear in next week's RECORD.