In Memoriam

SAMUEL D. THURMAN

Samuel D. Thurman, a noted leader in American legal education, former chairperson of the Section of Legal Education and Admissions to the Bar, and author of a widely used legal ethics textbook, died February 4 at age 81 in Salt Lake City.

Thurman, a former dean of the University of Utah College of Law and a current distinguished emeritus professor there, received practically every recognition of merit awarded in legal education, including the Section's Kutak Award in 1990. He was a professor and administrator at the University of Utah, Stanford University, and the University of California-Hastings College of the Law.

Thurman was a Utah native, born in 1913, and a son of a member of the Utah Supreme Court. He received his bachelor's degree at the University of Utah in 1935, started law school there and received his law degree in 1939 from Stanford. He returned to Salt Lake City where he practiced law until 1942, when he was appointed an associate professor at Stanford.

For the ensuing twenty years at Stanford, Thurman was a professor, associate dean, acting dean and was the Marion Rice Kirkwood Professor before moving back to Salt Lake City to become dean of the University of Utah law school from 1962 to 1975. He was named a distinguished professor in 1975 and retired in 1986 when he moved to California-Hastings. He returned to the University of Utah as a distinguished emeritus professor in 1992.

"Dean Thurman combined remarkable accomplishment with gentleness, humanity and decency of the highest order," Dean Lee C. Teitelbaum of the University of Utah College of Law said.

In addition to chairing the Section in 1978-79, Thurman was president of the Association of American Law Schools, was director of the National Legal Services Corporation for three years, was national president of the Order of the Coif for two years, was a fellow of the American Bar Foundation and served on the editorial board of the Foundation Press, the country's largest publisher of legal textbooks.

The University of Utah and McGeorge School of Law awarded Thurman honorary doctorates. He also received a distinguished alumni award from Stanford.

Thurman is survived by four children and several grandchildren.
On Wednesday, February 1, 1995, the Section of Legal Education and Admissions to the Bar renewed a former practice of presenting a report and program to the Conference of Chief Justices. Council member Randall T. Shepard, Chief Justice of the Indiana Supreme Court, served as moderator for a panel entitled “Law Schools and Bar Admissions and Opening Dialogue: Current Issues for Chief Justices, Legal Educators and Bar Examiners.”

The first speaker representing the Section was Judge Joseph W. Bellacosa of the New York Court of Appeals, current Section Chairperson. Judge Bellacosa stressed the longstanding relationship, reliance and traditions between the highest courts of the states and the ABA accreditation process. He stated the recognized value and legitimacy of a national set of norms, standards and regulatory procedures. He reviewed the ongoing threat to the stability and continuity of the tested process and reviewed the work of the Section’s Commission to Review the Substance and Process of the American Bar Association’s Accreditation of American Law Schools chaired by Rosalie E. Wahl, who recently retired as Justice of the Minnesota Supreme Court. Judge Bellacosa emphasized the need for improved and mutually supportive communication channels between the ABA accrediting authorities and the highest courts in relation to the organized and unorganized bar to other governmental authorities and to the consumers of legal services, the public, students and clients. In conclusion, he stated, “I think we need one another and are natural allies, and I unashamedly plead for your understanding, your help and your frank support wherever appropriate in your judgment in the interest of the courts you lead.”

I then gave a brief history of the ABA’s accreditation process and a description of the current methodology of the process. I reviewed changes that are taking place in legal education, and new dimensions of legal education particularly the growth of foreign programs conducted by ABA-approved law schools for their students overseas or the opportunity under approved criteria for students at ABA law schools to study abroad. I reviewed the effects of the 1992 amendment of the Higher Education Act and the 1994 implementing regulations of the U.S. Department of Education and their impact on the accreditation function of the Council of the Section of Legal Education and Admissions to the Bar as the nationally recognized accrediting authority for law schools by the Department of Education. He reviewed the ongoing recodification of the Standards and the assessment of their validity and reliability.

Erica Moeser, the Chairperson-Elect of the Section and the new President of the National Conference of Bar Examiners, emphasized events in bar admissions that impact the highest courts of each state. These include the Americans with Disabilities Act and its implications for character and fitness screening; the proliferation of LL.M. programs and what an LL.M. signifies in a licensing context; the relevance of NAFTA and the regulation of Foreign Legal Consultants; the relationship of proposed ABA Standard 215 on consumer information to Continued on page 13
Wahl Commission Hearings

The Commission to Review the Substance and Process of the American Bar Association’s Accreditation of Law Schools, chaired by Hon. Rosalie E. Wahl, held hearings at the ABA Midyear Meeting in Miami. These hearings, held February 10 and February 12, were a follow-up to hearings held in January during the AALS Annual Conference.

The Wahl Commission has formed two subcommittees. The Subcommittee on Standards is chaired by Dean John Feerick of Fordham University School of Law. The Subcommittee on Process is chaired by Diane C. Yu, Esq., general counsel of the State Bar of California. The Commission met in Indianapolis in March, and plans two more meetings in April and June. Comments about the substance and process of the ABA’s accreditation function may be directed to Justice Wahl in care of the Office of the Consultant, 550 West North Street, Indianapolis, Indiana 46202.

Dean John T. Feerick, Fordham University School of Law, moderated the hearing of February 20.

Joe C. Loser, Jr., president and dean of Nashville School of Law: “As [the] Standards are presently constituted, the cost of becoming a lawyer is so great that most middle class Americans are frozen out of the profession.”

Tom Leahy, former president of the Illinois State Bar Association, co-moderated the hearing.

Professor Minna J. Kotkin, chair of the AALS Section on Clinical Legal Education: “We believe that the accreditation Standards should continue to avoid wherever possible specifying particular courses or modes of instruction, and should be designed to preserve flexibility. . . However, the accreditation process must ensure that law schools comply with their obligation to prepare students to participate effectively in the profession.”

James L. Baillie of the ABA’s Standing Committee on Lawyer’s Public Service Responsibility: “Public service is a core value and ought to be one of the primary ways by which law schools and law school education is judged.”

Professor Mary Coombs, University of Miami School of Law: “law schools have gotten better in the range of gender and ethnic and racial diversity in their faculties, but they still have an underrepresentation of both women and minorities within their faculties.”

Robert MacCrate, Esq., former ABA president: “In your deliberations on the substance and process of accreditation, I urge you at all times to keep in mind the underlying purpose of the American Bar Association’s accreditation of law schools set forth in the first Standard: to bring about the improvement of the legal profession in America.”
NALP Report

Law Graduate Employment: The Need for Institutional Commitment

by Kathleen Brady

So many factors influence a student’s ability to find employment after graduation. Some of these factors can be controlled by the student—things like academic performance and involvement in extracurricular activities. Other factors—like the tight legal market and the limited availability of non-legal positions for law school graduates—are well beyond a student’s control. Career services offices report that they are working harder than ever to help students develop strategies to take control of the things they can and to cope with the things they cannot. And, while career services offices have the primary responsibility for helping students with their employment searches, it could be suggested that the entire law school community has an obligation to assist students as fully as possible in the job search process.

The task of the career services office is to counsel students and support them in self-assessment and to provide specialized programming to inform students about the various types of employment options available. Career services offices spend enormous amounts of time walking students through the nuts-and-bolts and nitty-gritty details of a job search, including writing cover letters and resumes, using technology to research employers, making appropriate telephone calls to inquire about positions, and perfecting networking and interviewing skills. These counseling services are enormously time-consuming and labor-intensive. Yet, at the same time, career services offices also actively pursue every opportunity to present their law school and its students or graduates to prospective employers. They do it with professional quality mailings, solicitations for job postings, employer marketing and outreach calls, organizing job fairs, and so much more.

Clearly, all of these services are meaningless unless students actively participate in the career planning process. Career services administrators often lament that they plan excellent programs with outstanding speakers, but students do not attend. Alumni are disappointed when they volunteer to speak to students to assist them with their searches and students do not call them. Too often, students seek “quick fix” answers like mass mailings or rely solely on on-campus interviewing. They do not avail themselves of the plethora of resources available to them. Many get prematurely disheartened and opt out of the job search process altogether.

Law school deans can play an important role in keeping students motivated. By sending clear messages that students who do not fully utilize the career services office are short-changing themselves, deans can help inspire students to be active participants in the job search process. Ultimately the student must assume the responsibility for finding a job and take advantage of all the career services office has to offer. But by listening carefully to student concerns about employment experiences and then listening equally carefully to career services administrators, law school deans can assist in building a better process, program or outcome.

Deans may want to consider meeting with students in small groups to talk with them about opportunities that exist beyond the students’ limited field of vision. Inspire them with the stories of graduates who struggled in the job search process but ultimately secured meaningful employment. Such meetings not only provide the students with emotional support but also serve to eliminate the myth that the law school only cares about and serves the top 10 percent of the class.

Law school deans can also assist in the process by energizing the alumni to work on behalf of the students. Possibilities include 1) sponsoring alumni roundtables where alumni meet with groups of students to talk about their career paths; 2) establishing career services alumni advisory boards or career services subcommittees of your Board of Visitors; and 3) inviting, welcoming and encouraging the career services administrator to attend alumni events where she can make valuable contacts with alumni that can then be passed on to students.

The importance of faculty, curriculum and instruction in an institution’s successful employment program cannot be understated.

A law school’s reputation—based in part on the academic program it provides, the quality of instruction and expertise of faculty—has a dramatic impact on employment opportunities. Institutional reputation precedes our students in the job search process. Law school deans and others in law school administration can have a great deal of influence over the reputation of the school and how it is perceived by employers by tapping into personal and professional networks as well as being visible in professional associations.

Similarly the faculty can play a crucial role in creating positive perceptions in the legal community simply by being visible to employers. Attending events hosted by the alumni office and career services office, or participating in recruiter lunches during OCI season enables employers to meet faculty in an informal setting.
and learn more about the law school’s curricular focus. Faculty members can also help students in their quest for employment through their willingness to allow students to practice networking skills on them. Being open to advising students about practice areas, job settings, geographic locations, etc., and sharing professional contacts, helps students to develop the confidence needed to approach people outside the law school community to seek assistance. Perhaps the most critical issue facing law schools and their graduates is the growing debt load of law students and its impact on employment options. With median starting salaries hovering around $36,000, graduates either need higher-paying jobs across the board or less law school debt. To ameliorate the situation, many institutions have begun to design strategies to help students leave law school with less debt. Many have engaged in belt-tightening, down-sizing and other cost-cutting measures to keep tuition costs from increasing. Another strategy would be to seek out new resources to help moderate the costs that are passed on to students. These may include aggressive pursuit of scholarship funds and development of loan repayment assistance programs. Although not the complete answer to the dilemma, these beginning steps could have a significant impact on students’ job choices. All members of the law school community—students, career services offices, law school deans and administrators, faculty and alumni—must work together to deal with the diminished career opportunities for its students. This is not the time to try and lay blame for the poor economy at any one segment of the law school community’s door. We must get beyond fault-finding and work together to effect positive growth in the employment opportunities for their students and to ensure career success and satisfaction for their graduates.

Kathleen Brady is 1995-96 President of NALP and assistant dean, career planning & placement at Fordham University School of Law.

Council Nominations Sought

Hon. Joseph W. Bellacosa, Chairperson of the Section of Legal Education and Admissions to the Bar, has appointed the following members of the 1994-95 Section Nominating Committee:

Chairperson
Dean Nina S. Appel
Loyola University-Chicago
School of Law
One East Pearson Street
Chicago, Illinois 60611

Members
Dean James Douglas
Texas Southern University
Thurgood Marshall School of Law
3100 Cleburne Avenue
Houston, Texas 77004
Harold L. Rock, Esq.
Kutak & Rock
The Omaha Building
1650 Farnam Street
Omaha, Nebraska 68102
Dean Steven R. Smith
Cleveland State University
Cleveland-Marshall College of Law
1801 Euclid Avenue
Cleveland, Ohio 44115
Dean Barry Vickrey
University of South Dakota
School of Law
414 East Clark Street
Vermillion, South Dakota 57069

Nominations for 1995-96 are to be made as follows:

Chairperson
Automatic Under Bylaws
Erica Moeser, Esq.

Chairperson-elect
To Be Nominated
Dean Rudolph C. Hasl

Vice-Chairperson
To Be Nominated

Secretary
(Two-year term):
To Be Nominated

Immediate Past Chairperson
Automatic Under Bylaws
Hon. Joseph W. Bellacosa

Council Terms Expiring
(Each for a three-year term):
Hon. Marie L. Garibaldi
Professor Harry E. Groves
Dean Herma Hill Kay
Walter H. White, Esq.

Council Seat Vacant
(One-year term):
Resignation of Martha W. Barnett

Please send any nominee suggestions to members of the Nominating Committee, with a copy to James P. White, American Bar Association, 550 West North Street, Indianapolis, Indiana 46202.

Curricular Innovation

The University of Richmond announces a new course entitled International Business Practice Clinic. The course is taught by William J. Benos, a corporate attorney with the Richmond law firm of Williams, Mullen, Christian & Dobbins, and George L. Hiller, an international marketing manager with the Virginia Department of Economic Development.

The goal of the clinic is to give students “hands on” experience with typical international legal problems that face Virginia businesses. Students will be called upon to identify legal issues, research appropriate and applicable laws, develop legal strategies and present recommendations to a client.

Law student teams will be working with MBA student teams from the University of Richmond, Virginia.

Continued on page 16
Legal Hotchpot

The U.S. Department of Education’s Fund for the Improvement of Postsecondary Education has awarded the Government Law Center of Albany Law School a multi-year grant to develop an in-service learning program to provide students from five Capital District colleges with training and practical experience in community mediation. Mediation, which involves the use of neutral third parties (in this case the students) to help achieve the resolution of a dispute, is increasingly being used as an alternative to the courts. The Mediation Assistance Program will allow the participating colleges and universities to provide their students with a practical setting for the application of mediation and alternative dispute resolution techniques.

As part of their training, students will serve an apprenticeship at one of the six court-affiliated mediation centers in the greater Capital Region. Once trained, the students will mediate disputes among and between residents of Albany’s public housing facilities. The program will play an important role in making mediation services more accessible to low-income housing residents.

The Government Law Center will administer the program with assistance from the Albany Housing Authority. “We are looking forward to working with the students and faculty of the other area colleges and universities in offering them opportunities to seek an interdisciplinary approach to conflict resolution,” says Patricia E. Salkin, Esq., director of the Government Law Center. “We believe that the first two years of this program will provide a national model for dispute resolution in public housing.”

To ensure accessibility, the Mediation Assistance Program will operate at sites throughout the Albany Housing Authority.

The Mediation Assistance Program was first offered in January 1995 as part of the winter semester at Albany Law School. Each student is required to participate in mediation-related activities during the semester. In addition, ongoing mandatory training on issues such as Alternative Dispute Resolution and multi-culturalism, domestic violence, AIDS, and other topics are presented. In an effort to provide a focused and reflective learning experience, students receive feedback from their mediation sessions, attend regularly scheduled sessions with other Mediation Assistance Program participants and the program manager, and will submit papers about their experiences.

The inaugural issue of Southwestern University School of Law’s Southwestern Journal of Law and Trade in the Americas has just been published. The biannual journal is the only student-edited publication dedicated to legal issues facing the United States, Canada, Mexico, Central America, and South America as they forge new economic, social, and political relationships. A regular feature will be “The United States International Monitor,” an overview of significant policy developments involving trade and investment policies affecting the Americas.

The Southwestern Journal of Law and Trade in the Americas is just one of Southwestern’s programs focusing on law in the Americas. In addition to the law school’s extensive course offerings in international and comparative law, Southwestern hosts summer programs in Vancouver, Canada, and Buenos Aires, Argentina, and is a co-sponsor of a consortium program in Guanajuato, Mexico.

Fordham Law School was selected as the winner of the 46th Annual National Moot Court Competition on January 26 at the finals of the competition held at the Association of the Bar of the City of New York. Two hundred twenty-three teams from one hundred forty-nine schools entered the competition which began last fall.

The Fordham team consisted of James Bliss (Captain), Michael Cryan and Edward Hassi. Hassi was selected as best speaker in the final argument of the national competition, and Bliss was named the runner-up best speaker.

The runner-up team in the competition was the College of William & Mary Marshall-Wythe School of Law, which was also honored for submitting the best brief in the competition.

The panel of nine judges for the final argument included the Honorable Ruth Bader Ginsburg, Associate Justice of the Supreme Court of the United States, and Hon. Thomas P. Griesa, Chief Judge of the U.S. District Court for the Southern District of New York.

With the ongoing debate over health care reform, it’s important for the nation’s judges to stay abreast of the ever-changing health law issues. Thanks to the University of Houston Health Law and Policy Institute, they can. Twenty U.S. District Judges find it easier to sift through health care topics such as bioethics, AIDS and drug abuse since they attended a three-day seminar at UH.

During the seminar, the judges met Dr. Denton Cooley, surgeon in chief of the Texas Heart Institute and Richard Wainerdi, president and CEO of the Texas Medical Center, and took tours of Texas Children’s Hospital, Ben Taub Hospital, Methodist Hospital and M.D. Anderson Cancer Center. The seminar focused on several acute and complex areas of health law: bioethics, genetics, health care reform, the Americans with Disabilities Act, as well as psychiatry, jail and prison health and drug abuse.
Faculty Honors

At the recent Twenty-First Annual Law School Dinner, Dean Ronald F. Phillips of Pepperdine University School of Law was honored for his twenty-five years of service as dean of the law school. A brief multimedia presentation was compiled to praise the achievements of Dean Phillips with speakers such as United States Supreme Court Justice William Rehnquist, Sandra Day O’Connor and Antonin Scalia making personal statements about his outstanding service. Dr. Davenport, president of Pepperdine University, then unveiled a plaque bearing the name of Dean and Mrs. Phillips that will soon be placed on the Phillips Meditation Room at the law school.

Richard Ottinger, dean of the School of Law at Pace University, has announced the appointment of Nicholas Triffin, professor of law and director of the law library, as the new director of the Institute of International Commercial Law.

Professor Triffin is a graduate of Yale University and Yale Law School, where he specialized in international law and wrote extensively on the General Agreement on Tariffs and Trade (GATT). He has served as acting director of the Institute since the death of its founding director, Willem Vis, in December 1993.

The Institute was established in 1991 as a center for the study of areas of law relating to international commercial transactions and dispute settlement procedure. “The Institute of International Commercial Law at Pace is fortunate to have Nick Triffin as its new director,” said Dean Ottinger. “His expertise in the rapidly changing area of international law and his knowledge of the new technologies needed to deliver worldwide information services will add great strength to the Institute and to the School of Law.”

The Institute conducts the Annual Willem C. Vis International Commercial Arbitration Moot in Vienna. This year, students representing twenty-three law schools from around the globe will participate in the international event in March. Supported by a major grant from the National Center for Automated Information Research, the Institute is in the process of assembling an extensive database on the Internet containing cases and interpretative materials on the United Nations Convention on Contracts for the International Sale of Goods (the CISG)—the new uniform international sales law of the United States and most of our major trading partners. When completed, it will comprise the most comprehensive electronic database on this subject and will be of indispensable value in fostering world trade.

Federal Arbitration Law, by Ian R. Macneil, Richard E. Speidel, both of Northwestern University School of Law, and Thomas J. Step-panowich, University of Kentucky, has won the 1995 American Association of Publishers award for the Best New Legal Book published the preceding year.
FROM THE CHAIR
An Allegorical Journey Over the Rainbow of Accreditation

by Joseph W. Bellacosa

Editor’s note: As readers of Syllabus know, Chairperson Bellacosa has written thoughtful and serious columns in past issues describing matters related to accreditation and the work of the Council. In this column, Chairperson Bellacosa takes a lighthearted look at the experience of chairing the Section during a time of intense public debate on accreditation, and invites you to “take an imaginative spin through the space of virtual reality.” Enjoy the ride!

In November 1987, I trekked to Tallahassee for my first Accreditation Committee meeting. Dennis Archer, then a member of the Michigan Supreme Court and now mayor of Detroit, was assigned as my mentor. The four-day weekend Committee meeting, with a then record-shattering 40-plus pounds of agenda books, was sited at Florida State University College of Law, then deaned by its now university president Sandy D’Alemberte. The Committee dined one evening at the beautiful home of now Chairperson of the House of Delegates Martha Barnett, in a setting this New Yorker perceived as Walden Pond-like. José Garcia-Pedrosa, then a member of the Committee and now one of the Council’s delegates to the House, drove us to the house through an Everglades-like ecosystem. At first, I apprehended the trip as a hazing ritual for new Committee members, until all of us were warmed by the gracious hospitality of the Barnettts. Yet, I vividly recall Martha’s distinctive greeting to this Brooklyn-bred kid: “Don’t worry, Joe, about the ‘gators, who sometimes silently slither up the veranda,” only to find myself seated with back to the lagoon. Little did I realize what a momentous metaphor this fascinating setting provided for my accreditation years and, especially, for my Council role, now at its halfway pilgrim’s mark as tour leader. I have walked collegially unawares, amidst outsider snapjaws and snipes and wee and woe folks.

As I customarily do in my official, real life, I reserve final judgment about my accreditation shelf life. The full meaning of my allegorical journey must await all the evidence being adduced until August 1995 in Chicago. In the tentative meantime, my imagination soars, however, with templates to measure the trip so far. Ulysses, Ishmael, Gulliver, Amelia Earhart, Don Quixote and Neil Armstrong spring to reverie. So, too, dreamy vessels like the Pequod, the Bounty, the Titanic, the Endeavor, the Starship Enterprise and the Gaine, but never the Good Ship Lollipop or the Love Boat. Avoid the Hindenburg at all costs, I hear my Jiminy Cricket warning. I see my shadow travelling as a Douglas Adams’ Hitchhiker, seeking Guides along the Galaxy, dubbed Accreditation. Along the meteor-flying way are Encounters of a Close Kind with Klingons, Vulcans, Three Quarks and cosmic debris. Yossarian’s Catch-22 compares like nothing to a spin through Milo Minderbinder II’s perpetual bombing missions, flybys, flak and flukes. Joe Heller teaches we are crazy to stay and too crazy to leave or be excused. Navigating from Twilight Zones through Black Holes, with dips into Dante’s Circles of Inferno, locating numerous nemeses, is mostly not fun. Try mostly weird! Excitement and adventure aplenty, but also entropy. It takes more than an E = MC² energy force to escape Newtonian gravitational swings of third or fourth dimensional waves.

Other speculative interludes and brain teasers pop quiz us as to whether Consultantus Magnificus is really Captain Kirk or Captain Picard. Could he be Spock? Sweet E.T.? Strange, how Scottie beams everyone and everything eventually into or through the Indianapolis Milky Way. Would Jules Verne understand this League and descent? Would Leopold Bloom care that baseball is on strike and that no safe haven looms? Are those Joycean zigs too offpudding? Was the reader expecting zigs?

Try pondering whether an accreditation Yellow Brick Road exists. Is the oracle or guru just over some yet unseen rainbow or flailing in Finnegans’s wake? Why must the Styx be crossed and the twin tumult of Scylla and Charybdis be traversed to arrive at Elysian Fields? Who are all these Darth Vaders, anyway? This voyager, in August 1995, will re-discover the Isle of Ellis, as mysteries dissipate, and leave Elba behind in the mists. Rounding the bend of this frolic and detour, I pray the reader enjoys or, at least, understands the need for this whimsical jabberwocky and lightheartedness. Life and work at the Court of Appeals and on behalf of the ABA accreditation process are overly serious most of the time, and an imaginative spin through the space of virtual reality is so refreshing. Anyone seeking a moral from the stream-of-consciousness skipping synapses and seriatim metaphors should

Continued on page 13
WASHINGTON REPORT

by E. Bruce Nicholson

Now well into the “first 100 days” of the 104th Congress and the Republican Contract with America, it is clear that program terminations and severe cuts will affect ABA-supported legal education programs and student financial aid. Competing tax proposals, including those under the Contract with America and President Clinton’s higher education tuition deduction, will be taken up toward the end of the 100 days and only after budgetary cuts have laid the groundwork.

President Clinton’s $1.6 trillion budget for Fiscal Year 1996, sent to Congress on February 6, 1995, proposes elimination of 130 government programs and consolidation of 270 other government programs, including several ABA-supported higher and legal education programs. The Law School Clinical Experience program, currently at $14.9 million, would be terminated in the President’s budget. The President also included the Clinical program as one of sixteen education programs recommended for Congressional rescission of the current-year budget, and the House Appropriations Committee acted swiftly to approve this rescission among almost $18 billion in cuts approved so far. Congress will complete action on current-year rescission by the end of March.

The Legal Training for the Disadvantaged program (CLEO), currently funded at $2.86 million, would be also be eliminated under the President’s budget recommendations, as part of the administration’s Reinvigorating Government initiative, as would the Patricia Roberts Harris graduate fellowships program, currently at $20.2 million. The Harris fellowships program is also subject to rescission of $10.1 million remaining in the current-year budget.

The Federal Direct Student Loan program would have budget authority for FY 1996 of $1.6 billion as recommended by the President, up from its current $1.3 billion, toward plans to expand the direct loan program to 80 percent of new student loans for 1996-97, and 100 percent of student loans for 1997-98. However, House Congressional leaders have introduced legislation to scale back the direct lending program and cap its portion of loans at 40 percent of the market.

Republican leaders in Congress have also targeted interest subsidies on student loans, which pay interest on student loans for currently enrolled students and until six months after leaving school, as a primary candidate for a budget cut. The Congressional Budget Office estimates that the five-year cost of these subsidies will be substantially higher than the previously accepted figure of $9.56 billion. However, President Clinton promised in mid-February to veto any legislation repealing the interest subsidy on student loans.

Competing tax proposals will also be addressed early in the 104th Congress. The President has proposed a tax deduction of up to $10,000 over five years for the cost of college, university, or vocational education, which has been combined in legislation with a proposed option to offer a deduction on interest on student loans—restoring the deduction repealed as part of the 1986 tax reforms. This “middle class” initiative will be competing with the Contract with America “family” proposals for tax relief on capital gains and a new credit for families with children when Congress finishes its initial round of budget-cutting.

E. Bruce Nicholson is legislative counsel for the Government Affairs and Public Services Group of the ABA.

Committee Nominations Sought

A important function of the Chairperson of the Section of Legal Education and Admissions to the Bar is the appointment of members of Section Committees. The Chairperson seeks membership from the three components of Section membership: legal educators, practicing lawyers and judges. The Section of Legal Education and Admissions to the Bar provides a wide range of service to legal education and the profession. Much of this service emanates from the work of the committees of the Section.

Section resources are very limited and Committee members’ expenses are reimbursed in accordance with ABA guidelines. Often committee meetings are held in conjunction with other activities in order to contain costs.

In making appointments of new members to Section Committees, the Chairperson will balance continuity of membership with the perspective which new members can contribute. Committee appointments are for 1995-96.

The following are the committees for which the Chairperson seeks suggestions for membership.

Accreditation
Communication Skills
Continuing Legal Education
Curriculum
Law Libraries
Legal Writing
Pre-Law
Professionalism
Skills Training
Standards Review
Student Services

Please send your suggestion by May 1, 1995 to either: Erica Moeser, Esq., c/o Consultant’s Office, Indiana University, 550 West North Street, 3rd Floor, Indianapolis, Indiana 46202; or Erica Moeser, Esq., National Conference of Bar Examiners, 333 N. Michigan Avenue, Suite 1025, Chicago, Illinois 60601-4090.
Law Reviews: Do the Inmates Run the Asylum?

In the nation’s law schools, students decide who among their professors will publish or perish. The students who run the nation’s top twenty law reviews gathered at Stanford Law School on February 25-26 to discuss this unusual state of affairs with law professors, lawyers, and judges.

“Never before in more than two centuries of jurisprudence has so much ‘unreviewable discretion’ been gathered together,” Stanford law professor Joseph Grundfest remarked as he surveyed the audience of mostly student editors gathered to listen to a discussion of the topic “Do the inmates run the asylum?” The title was inspired by the fact that, unlike other academic graduate or professional programs, law turns the decision on what to publish over to its least experienced participants—its students.

The conference was organized by the Stanford Law Review, whose student members decided it was time to bring grumblers—readers, authors, editors—face to face to discuss their differing views on the purpose and practices of these academic journals, publications that survive by selling subscriptions to the nation’s law libraries and law firms.

Law review space is in high demand by faculty and would-be faculty authors, and a large part of the task of running a law review is figuring out what to publish, according to law review editors who attended. The Stanford Law Review, for instance, receives 5,000 to 6,000 manuscripts annually, from which it must choose 15 to 20 articles to publish, according to current president Phoebe Yang. Tenure decisions, she said, can hang on whether or not a junior faculty member gets published in one of the prestigious reviews, and there is competition among the reviews to publish the most highly regarded people.

Student-written articles—generally called “notes”—are also the means by which students establish their reputations. Publishing a note or editing a review gives a student more chance to land the most prestigious clerkships and junior positions in the best law firms. Some law reviews, such as Harvard’s, permit only their law review members to write for the review, while others, such as Stanford’s, take submissions from all law students and try to broaden access with rules that require law review members to abstain from voting on publishing the work of student authors whom they know.

Pros and Cons

Much of the conference was devoted to the discussion of day-to-day operations of journals, but the opening session focused on the larger subject of whether students should be in charge of them.

Among the cons cited:

- Students do not always select the best articles on a given subject. They pay too much attention to what the faculty—who give them grades—think or to the prominence of an author’s institution. They allow errors, which they are reluctant to correct; they sometimes over-edit. And too many of the articles they publish are long, boring or irrelevant to lawyers’ and judges’ concerns. Some also accuse the journals of having become more literary, or journals of opinion rather than of legal scholarship.

- Among the pros cited:

- Students are more tuned into the real world of law than faculty because they work as summer interns in law firms and are seeking jobs. They meet deadlines better than do faculty. They spend long unpaid hours on the tedious task of checking citations for accuracy. Their judgment reflects the latest thinking of top law school faculty, but students may be less likely to let friendships and political orientation influence who gets published than are the faculty who control journal publication in other disciplines.

- In the end, the four law professors on the panel agreed that having faculty run the journals was a worse solution than having students run them. Some suggested, however, that faculty should take more responsibility for guiding and training the students, while others suggested the students should do more to reach out to their readership on the bench and the bar to get ideas for a broader range of article subjects.

On the matter of deadlines, Susan Starn, editor-in-chief of the Columbia Law Review, questioned whether faculty could produce eight issues a year, as she and her colleagues at Columbia do. “Some of us are still waiting for our grades from last semester.” The audience responded with knowing laughter.

Jessica Karmer, editor-in-chief of the California Law Review of Boalt Hall, said that faculty editors are more likely to play favorites. “I think one of the most valuable things we bring as students is that our points of view are less settled and more flexible, and the decision to publish—at least at our review—is made by five people reaching consensus.” The situation, she said, probably leads to “more progressive politics” in the reviews and “more freedom to advance the law more quickly.”

“Law reviews are most of all a process of editing,” said David Friedman, president-elect of the Harvard Law Review. “I can’t imagine professors doing that.”

Law reviews have changed substantially over the past decade, some panelists said, so that judges and lawyers find them less practical for their concerns. Whereas once the journals were heavily influenced by the kind of law practiced at elite firms and before appeals courts, now they pay most attention to professors’ theories of the role of law in society.

“It used to be that law professors and students were robe sniffers,” said James Lindgren, visiting professor at the University of Texas Law School, and one of the most outspoken faculty critics of law reviews. “They watched everything that was going on in court and followed it.” Now, he said, the name schools and their law reviews “are looking at law as a university discipline to be
understood. In other words, you are often publishing articles about law, rather than law articles themselves."

But he added that he did not object to these theoretical pieces because theoretical pieces, such as those of Catharine MacKinnon on pornography, “change the way we understand the world.” His own concern, he said, is with over-editing, favoritism and errors, which, he said, could be corrected if faculty were more actively involved in helping to train and work with the student editors.

Indeed, several student editors said they seek out faculty members’ advice but find faculty reluctant to read draft articles. And while Lindgren complained that some editors feel obligated to change every sentence in an article, some of the editors complained that faculty submit unfinished articles, expecting the

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**Students decide who among their professors will publish or perish.**

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student editors to finish the research and structural work for them.

James Brosnahan, a partner in Morrison & Foerster and a practicing trial lawyer, agreed that law reviews have become more theoretical, but he urged the editors not to listen to those who say theory is not interesting to lawyers and judges in the field. “The concept that over in academe, under palm trees and sipping caffe lattes, is a world of thought, and out beyond are grinding practitioners with old briefcases who care nothing for ideas—that’s a destructive idea. It’s doing enormous damage to the practice of law and the way the public views lawyers.”

Student editor Karmer added that she did not worry if there is a gap between theory in journals and practice in the field. “Eventually, hopefully, the theories that we are publishing will become useful, and if not today, that’s okay.”

Nevertheless, Appeals Court Justice John T. Noonan Jr. of the Ninth Circuit admitted he rarely read a law review article because he is too busy reading lawyers’ briefs and the articles they cite. He reminded the students that their predecessors, once out of school, rarely cite law review articles in making their arguments. In some cases, he said, law schools and their journals are “ten years out of date.” For example, he said, sentencing has become “the largest subject of appeal.” Judges face “a very large rule book and several thousand cases” of precedent, but “I’ve never seen a law review citation as to what sentences should be.”

Brosnahan agreed that the law reviews may not be as well read in the field as they once were. “There is a lot of competition out there for reading time—what people are willing to read—and I think you are feeling it, because I sense from my discussions that law reviews are not high on the list.”

Grundfest also noted that specialty journals are providing new competition. A group of Stanford students, for example, started a new journal this year called the Stanford Journal of Law, Business and Finance to deal with issues of financial derivatives and other complex business transactions that they feel are not well covered by other types of academic journals.

Law reviews would be more interesting to practicing lawyers if they ran more articles on criminal and civil procedure, suggested Stanford law Professor Miguel Mendez, who was previously a practicing lawyer. Mendez said he did not want to see the scholarly journals become “trial manuals,” but said that he felt the students are too overly influenced by their academically oriented professors. He urged them to “go beyond the kind of imagination that has been given to you by your professors and imagine what it is that some of the practicing bar and bench would like to read and find useful.”

“I don’t think we’ll find a better solution if we turn [the law reviews] over to faculty,” said Hastings’ Leo Martinez. “The fact that you crank out eight journals a year is an astounding feat.”

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**LSAC Report**

**Law School Applications Decline for Fourth Successive Year**

by James Vaseleck

The topic of declining law school applications has received a lot of press lately, spurred in part by an article that appeared in The Wall Street Journal on February 17, 1995. That article reported the year-to-date applicant and application volumes as of early January, when just under half of the anticipated volume had come in. At that time, there was a decline in applications of more than 12 percent over last year. Since early January, the picture has improved. Although the number of applications for the 1995 entering class will almost certainly be down, representing the fourth successive year of decline, the degree of decline will not be as great as earlier figures may have indicated. By February 17, with nearly three-quarters of the anticipated application volume in, more than 58,000 applicants had generated more than 276,000 applications to ABA-approved law schools. These figures represent declines from last year’s figures of 7.8 percent and 8 percent, respectively.

Schools in the northern midwest and west seem to have had the greatest decline in applicants and applications, while schools in the northeast, mountain and central states have felt less of an impact. As always, the experiences of individual schools vary significantly. Final figures will be available in August.

James Vaseleck is the associate corporate counsel for the Law School Admission Council.
commentators have questioned the future of peremptory challenges. In light of this, the topic of the essay is: Has the time come for the peremptory challenge to be abolished?

Entries will be judged on originality and accuracy of substance, and conciseness and clarity of style. First-, second- and third-place winners will be notified by July 15, 1995. The winning entries will be announced at the Section of Criminal Justice's Annual Meeting in August 1995.

The first-place winner will receive free round-trip airfare to attend the 1995 Criminal Justice Section's Annual Meeting Luncheon in Chicago and one night's lodging (certain restrictions apply). The winning entry will be published in Criminal Justice. Second- and third-place winners will be announced in Criminal Justice, and the entries may be accepted for publication in the magazine.

Only original and previously unpublished papers are eligible. Papers prepared for law school credit are eligible provided they are the entrant's original work. Jointly authored papers are not acceptable.

Entries cannot exceed 1,700 words. Submissions must be on 8½ x 11-inch paper, double-spaced, with one-inch margins. Use legal memorandum form, with citation sentences contained as parenthetical remarks in the text rather than as footnotes or endnotes. Citations should conform to Bluebook (15th ed., 1991) style.

Attach two different title pages. On the first, provide title of paper and date submitted for academic credit (if applicable), author's name, social security number, law school, year of expected graduation, and permanent and temporary addresses and telephone numbers. The second title page should contain only the paper's title and author's social security number.

Send six copies of each entry to be received by May 1, 1995 to: Julie McCarthy, Editor, Criminal Justice, American Bar Association Press, 750 North Lake Shore Drive, Chicago, Illinois 60611 (phone: 312/988-6076).

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**Greenhalgh Student Writing Competition**

The ABA Section of Criminal Justice is holding its first annual William W. Greenhalgh Student Writing Competition. The contest is open to all law students in good standing who, at the date the entry is submitted, attend an ABA-approved law school and are members of the ABA and the Criminal Justice Section.

In the wake of several recent United States Supreme Court decisions, the ABA Section of Criminal Justice is holding its first annual William W. Greenhalgh Student Writing Competition. The contest is open to all law students in good standing who, at the date the entry is submitted, attend an ABA-approved law school and are members of the ABA and the Criminal Justice Section.

**Mark Your Calendar**

**APRIL 1995**

6-8 AALS/ABA/LSAC/NCBE Joint ADA Conference on Disability Issues | St. Louis, MO
8-9 ABA Legal Writing Committee Meeting | New York, NY
8-12 ABA-AFLI | New York, NY
20-21 ABA-AFLI | Washington, DC
20-22 AALS Accreditation Committee | Indianapolis, IN
27 ABA Section Commission to Review the ABA Accreditation Process | Indianapolis, IN
27-30 ABA Accreditation Committee Meeting

**MAY 1995**

3-6 AALS Workshop on Clinical Legal Education | St. Louis, MO
4-7 LSAC Audit Committee and Board of Trustees Meetings | Glenden Beach, OR
7-9 ABA Standards Review Committee | Indianapolis, IN
11-13 AALS Executive Committee Meeting | Washington, DC
16-19 American Law Institute Annual Meeting | Chicago, IL
17 ABA/AALS/LSAC Deans' Breakfast | Chicago, IL
17 Mayflower I Meeting | Chicago, IL
18 Mayflower II Meeting

**JUNE 1995**

1 ABA Section Officers Meeting | Albany, NY
2-3 ABA Council Meeting | Albany, NY
1-3 LSAC Annual Meeting and Educational Conference | San Francisco, CA
2-4 AALS Joint Conference on Role of Advocacy in the Classroom | Pittsburgh, PA
3-7 AALS Conference on New Ideas for Experienced Teachers: Excellence and Innovation in the Classroom | Minneapolis, MN
7-11 ABA New Deans Seminar | Winston-Salem, NC
14-17 AALS Conference on Civil Procedure | Washington, DC
16-17 ABA Annual Questionnaire Workshop | Indianapolis, IN
23-25 ABA Accreditation Committee Meeting | Santa Fe, NM
ABA's Proposed Standard on Tenure for Law Library Directors

by Barbara Bintiff and Steven Barkan

The ABA is bringing to a conclusion the reevaluation of the law library portion of its Standards for Approval of Law Schools. The process is intended to modify the Standards to reflect the widespread changes in law schools brought about by technological developments and increasing demands for services. The process has been underway for over a year, and the proposals in their current form reflect input from many ABA members, including members from the academic community. The provision still subject to the most discussion is the Interpretation of Standard 603(d), relating to the director of the law library.

The proposed Standard reads: “The law library director shall hold a law faculty appointment.” The Section's Law Libraries Committee is preparing to submit the following language for Interpretation 1 of Standard 603(d):

The granting of faculty appointment to the director of the law library under this Standard may be with tenure or as a tenure-track appointment: if the appointment is not with tenure, or on a tenure-track, it should be on the basis of a renewable long-term contract.

The debate surrounds the issue of whether access to tenure by the director of the law library should be optional, or whether it should be required.

Those in favor of the Interpretation in this form argue that each law school should have control over the character of its faculty appointments and the benefits its faculty are offered rather than having these matters directed by the Standards.

Because most law library directors teach no more than one class per year, devoting the majority of their time to the administration of the law library, the argument is that duties of this nature do not require the protection of tenure.

Those in favor of specifying that the law library director have access to tenure point to reasons underlying a grant of tenure to any faculty member. Tenure exists to protect and promote the fundamental freedom of faculty members to engage in intellectual activities without institutional interference. This freedom cannot be fully exercised unless all faculty have access to a complete range of information resources. Therefore, the law library director must have the intellectual freedom to develop the law school's information resources to provide other faculty the freedom to pursue their interests. If the law library director is not given the protection of tenure to exercise independent judgment in developing the law school's intellectual resources, all faculty, and the students, will suffer. A long-term appointment is not an adequate substitute for tenure because it will eventually expire, leaving a director vulnerable to non-appointment in retaliation for past decisions.

The Consultant on Legal Education to the ABA has invited written comments on the proposed revision of the Standards. The next, and final, public hearing on the proposed revisions will be held at the annual meeting of the American Association of Law Libraries, July 15-18, 1995, in Pittsburgh. Interested parties are urged to make their views known.

Barbara Bintiff is the law library director and associate professor of law at the University of Colorado School of Law. Steven Barkan is interim dean at Marquette University School of Law and law library director and professor designate at the University of Wisconsin School of Law.
AFRICAN LAW
Continued from page 1

and representatives of the University of Alabama, Cornell, and the University of Wisconsin.

The intent of the workshop was to establish a framework for future cooperative relationships between participating schools. Goals included assisting participating deans in establishing ongoing relationships, permitting all participants to gain an overview of legal education both in Africa and the United States, exploring areas of mutual and special interest, and developing an action plan for future work together. The program structure was facilitated through the effective efforts of Dean Judith Wegner.

The meeting was opened by U.S. Ambassador to Kenya Aurelia Brazeal, who stressed the importance of linkages between American and African legal institutions. Luncheon addresses were given by the Attorney General of Kenya, spoke at the conference luncheon.

Dean Henry Ramsey, Jr. of Howard University School of Law and Kim Parker, director of the CEEU Sister Law School Program.

Dinner at the minister consular's home with Dean Ibr'ahim Idis of Addis Ababa University and Dean Judith Wegner.

Hon. Amos Wako, Attorney General of Kenya, spoke at the conference luncheon.

Dean Judith Wegner of the University of North Carolina School of Law addresses participants at a working session.

Participants in the African Law Initiative Program in Nairobi.
General of the Republic of Kenya, the President of the Kenya Law Society, and a justice of the Kenya High Court.

Participants discussed legal education in their respective countries and how the quality of legal education might be improved. A particularly interesting discussion was on libraries and learning technologies, organized by Professor Kathleen Price of New York University School of Law, former librarian of the Library of Congress. She noted the impact of technological change which is increasing the gap between the “haves” and “have-nots.” She noted the difficult choices regarding the use of available resources and stressed that African law schools must define their information needs within the context of individual societies. She also stressed that technology choices must take into account the individual law school’s availability of computers and other research technology. Dean Sexton suggested that American University bookstores might work with law schools and their students to gather and donate used textbooks for use at the African law schools.

The meeting concluded with exploring models for successful law school linkages and developing an action plan for future collaboration.

The next phase of the project will be a visit to the United States by the African deans. The meeting will begin in New York City with meetings hosted by Dean John Sexton of New York University. The African deans and professors will then visit two American law schools and the meeting will conclude with the debriefing in Washington, D.C. Plans will be established for future relationships with each of the African law schools and their American law school partners, including a Fall 1995 visit by representatives of the American law schools to their African sister law schools.

A number of ABA law schools that did not participate in the initial planning activities have expressed their interest in participating in this project. Every effort is being made to accommodate them and involve them in the project.

### Actions of the House of Delegates

A number of items of interest to the Section of Legal Education and Admissions to the Bar were before the ABA House of Delegates at its February 1995 meeting in Miami.

#### Changes in the Standards

The House of Delegates, pursuant to compliance with the procedures for amendment of the ABA Standards for Approval of Law Schools, approved the recommendation of the Section of Legal Education and Admissions to the Bar to rescind Standard 202 of the ABA Standards for Approval of Law Schools. This action by the House of Delegates is effective immediately, thus eliminating from the ABA Standards for Approval of Law Schools the provision excluding those law schools that are operated for private profit from receiving ABA approval. Simultaneous with rescinding the Standard, the Interpretation of Standard 202 was also rescinded.

The House of Delegates also approved the recommendation of the Section of Legal Education and Admissions to the Bar to amend Standard 405. Standard 405 of the ABA Standards for Approval of Law Schools, as recommended by the Section and adopted by the House of Delegates, now states as follows:

**Standard 405**

(a) A law school shall establish and maintain conditions adequate to attract and retain a competent faculty.

(b) A law school shall have an established and announced policy with respect to academic freedom and tenure of which Annex 1 herein is an example but is not obligatory.

(c) A law school should afford to full-time faculty members whose primary responsibilities are in its professional skills program a form of security of position reasonably similar to tenure and perquisites reasonably similar to those provided other full-time faculty members by Standard 401, 402(b), 403 and 405. The law school should require these faculty members to meet standards and obligations reasonably similar to those required of full time faculty members by Standards 401, 402(b), 403 and 405.

The amended Standard 405 was approved in accordance with the established procedures for amending the ABA Standards for Approval of Law Schools. They were circulated in July 1994 for comment to deans of ABA-approved law schools, boards of bar examiners, chief justices of the state supreme courts and other constituencies. Two public hearings were also conducted, at which time oral and/or written comments were received. The first hearing was held in conjunction with the Annual Meeting of the American Bar Association on Saturday August 6, 1994, in New Orleans, Louisiana. A second hearing was held October 22, 1994, in Indianapolis, Indiana, in conjunction with the Site Evaluators’ Workshop. The Council adopted the amendment of Standard 405 in final form at its December 3-4, 1994 meeting. Upon action by the House of Delegates at its meeting on February 14, 1995, the amended Standard 405 became effective.

#### Approval of Law Schools

The House of Delegates of the American Bar Association, at its February 1995 meeting, upon recommendation of the Section of Legal Education and Admissions to the Bar, granted full ABA approval to St. Thomas University School of Law in Miami, Florida. Also, upon recommendation of the Section of Legal Education and Admissions to the Bar, the House of Delegates granted provisional ABA approval to Roger Williams University School of Law in Bristol, Rhode Island. The date of approval is February 14, 1995.
Read Resigns to Lead South Texas

Frank T. Read, Deputy Consultant on Legal Education to the ABA, has announced his resignation, effective August 1, 1995. Dean Read will become president and dean of South Texas College of Law in Houston on that date. Read has served as deputy consultant since January of 1994.

After graduation from Duke University School of Law, Read practiced law for five years and then joined the faculty at Duke. In assuming the deanship at South Texas, Dean Read will lead his fifth law school. He has served previously as dean of the University of Tulsa, Indiana University-Indianapolis, the University of Florida and the University of California-Hastings. Read has been very active in legal education circles; he has served as president of the Law School Admissions Council as well as in a number of capacities with the Association of American Law Schools and the ABA Section of Legal Education and Admissions to the Bar.

Of Read’s departure, ABA Consultant on Legal Education James P. White says, “Dean Read’s service to legal education and to this office has been extraordinary. As a result of his efforts the functioning of the consultant’s office and the site evaluation process have been improved, and service to deans has been enhanced. While there is only one Tom Read in legal education, his contributions demonstrate the ongoing necessity of a recognized legal educator to serve as deputy consultant.” Conceding that finding a successor to Dean Read is a monumental task, Consultant White encourages interested legal educators to apply. “The position gives one a global view of American legal education, accreditation and the changing profession. I hope deans, retiring deans, and associate deans will apply for the position opening on August 1,” says White. Interested persons may write to James P. White at the American Bar Association, 550 West North Street, Indianapolis, Indiana 46202.

INNOVATION
Continued from page 5

Commonwealth University and other schools participating in the Virginia Department of Economic Development’s International Marketing Planning (IMP) program. The teams will prepare international business plans to introduce the client-firms’ products or services into selected foreign markets. The teams will prepare comprehensive written reports and make formal oral presentations of their recommended strategies and the legal issues they have identified to senior management of the clients.

The professors’ backgrounds bring diverse and practical knowledge and experience to the course. Mr. Benos is a member of his firm’s business section and international and franchise, distribution and antitrust practice groups. Mr. Hiller, an international marketing manager with the Virginia Department of Economic Development, is responsible for export development in Central and South America. He also directs the Southwest Virginia Energy and Environmental Technology Export Development Plan which targets export sales of coal, mining equipment and services in Poland and other markets in Central and Eastern Europe.