Letters to the Editor

Negotiating

To the Editor:

Thanks! I just finished reading Jo Freeman's "Forum" article in the Winter 1984 *PS* on "Negotiating a College Textbook Contract." It was a real godsend. I'm just about to enter negotiations for the first time, and I will feel a whole lot more confident with your excellent article in my pocket. Bless you.

Harold M. Sandstrom
University of Hartford

Nominating

To the Editor:

Robert Nakamura's "The Reformed Nominating System: Its Critics and Uses" is a useful response to critics of the current system of presidential nomination. However, his assertion that the extended primary process contributes to the legitimation of the eventual nominee because the momentum of the early caucus and primary victories "might activate the party loyalty of voters and audiences in later contests so that they cast their support for the new standard bearer" is not supported by experience. Since the new system began in 1972, only one of the six nominations supports his thesis. The 1980 Republican contest was settled by Ronald Reagan's victories in the first few primaries, after which the other contenders (except for John Anderson) soon withdrew, leading to increasing victory margins for Reagan.

None of the other five nominations followed this pattern. The 1972 and 1976 Republican nominations are not relevant to the argument, the former because it was uncontested, the latter because it was so close that Gerald Ford's victory was not assured until the convention. The three Democratic contests contradict Nakamura's thesis. In 1972, George McGovern was the leader going into the final primaries in New York and California but his large leads in the pre-primary polls quickly shrank in a bitter California battle against Hubert Humphrey which continued into the convention when Humphrey challenged the legality of California's winner-take-all primary. In 1976, Jimmy Carter appeared to have the nomination wrapped up after the Pennsylvania primary but late entrants Frank Church and Jerry Brown won the Nebraska, Maryland, Rhode Island, and Oregon primaries as well as two of the three final-week contests. Finally, in 1980, Carter wins in New Hampshire, Wisconsin, and Illinois clinched his renomination but subsequent primaries saw improved performances by Edward Kennedy who won the New York and Connecticut primaries as well as five of the eight final week events.

No wonder the campaigns of front-runners so often appear bland and without specifics on issues.

While generalization based on such a small number of cases should be offered with caution, I would suggest a modified version of the legitimation thesis. When the apparent winner's opponents find him acceptable enough to throw their support behind him, Nakamura's argument holds. On the other hand, when the opposition finds him so unacceptable that despite the hopelessness of their position they redouble their efforts with stronger attacks, legitimation fails and

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the front-runner staggers to the nomination. Because attention focuses on the leading candidate, those who dislike him can vote for any other candidate, even one they dislike more, as a means of protest, knowing their vote cannot possibly elect that candidate. This makes it crucial for the leading candidate to be as conciliatory as possible towards his party rivals for their support is necessary even if he can win the nomination without them. No wonder the campaigns of front-runners so often appear bland and without specifics on issues.

Bruce E. Altschuler
SUNY at Oswego

Litigating

Editor's Note: Clement Vose wrote this letter in response to a request from the Committee on Professional Ethics, Rights and Freedoms to keep the committee informed about the current status of the Nixon Presidential Materials litigation.

To the Committee on Professional Ethics:

I am pleased to explain the basics in the new litigation over the Nixon Presidential Materials in which the Association has been engaged.

Soon after my article on the Nixon Project appeared in the Summer 1983 issue of *PS,* the National Archives and Records Service gave notice in the *Federal Register* on August 12, 1983 of the opening of the Nixon White House Special Files. The files of 37 staff members of the Nixon White House are listed as being scheduled for opening. Soon thereafter, 29 of these Nixon aides filed a motion in the United States District Court for the District of Columbia to stop the opening of these files. The case was then styled *Allen v. Carmen and Warner,* Richard V. Allen being at the top of the alphabet among the aides and Carmen being Administrator of the General Services Administration (GSA) while Warner is Archivist of the United States. President Nixon is not associated with this case although his attorneys in earlier litigation and continuing representatives in negotiating with the National Archives on the possible Nixon Presidential Library represent Allen and others. The attorneys for the plaintiffs are Herbert J. Miller, Jr., R. Stan Mortenson and David O. Stewart.

Their substantive argument is that the aides working in the White House believed, in good faith, that their then confidential memoranda would be shielded from public view for many years to come.

The Nixon aides brought an action for declaratory and injunctive relief from the Presidential Recordings and Materials Preservation Act of 1974 governing the Nixon papers and tapes and the "public access" regulations issued by the Administrator and the implementation of those regulations on the grounds that they are unconstitutional and invalid. Their substantive argument is that the aides working in the White House believed, in good faith, that their then confidential memoranda would be shielded from public view for many years to come. They asserted they had this protection in order to ensure candid exchange, fearless advice openly given while in office. Their constitutional point largely rested on the contention that the legislative veto provision of the 1974 Act (utilized several times in the drawing up of the regulations for the Nixon materials) was, in fact, invalid on account of the Supreme Court ruling on June 23, 1983 in *Immigration and Naturalization Service v. Chadha.*

This view was opposed by the GSA and National Archives through the Department of Justice. While this representation appeared to a large extent to be adequate, many of us concerned with the preservation, management and access to the materials for the Nixon presidential years felt that scholars should be otherwise represented, as we had been in earlier litigation. We again shared an interest in being represented in the case with the

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American Historical Association and the Reporters Committee for Freedom of the Press. Jack Landau of the Reporters Committee again made the arrangements for counsel and all of the organizations ended up being represented by the Public Citizen Litigation Group. How this happened Landau explained in a letter to us dated November 14, 1983, a letter that had best be quoted because it explains why we did not continue with Arnold & Porter whose lawyers I mention in the *PS* article and who have represented political scientists in this matter for ten years; and so I quote Landau as follows:

> As soon as I learned of the lawsuit, I got in touch with Bob Herzstein and Mark Spooner of Arnold and Porter to discuss how we should proceed. Both agreed that intervention in the case was the best route to follow. On Tuesday of last week, however, Mark Spooner informed us that the firm had decided that their representation of Henry Kissinger, although in unrelated matters, caused a conflict with the representation of our interests. Fortunately, in the meantime Public Citizen Litigation Group had expressed their desire to work on the case. Thus, we agreed that PCLG . . . will carry on our representation in this case.

The lawyers for the Public Citizen Litigation group working for us have been Arlene S. Kanter, Alan B. Morrison and David C. Vladeck. In addition to the Public Citizen, the Reporters Committee, American Historical Association and American Political Science Association, those engaged as would-be intervenor-defendants are seven named individuals of whom three are political scientists, James MacGregor Burns, J. Austin Ranney and Clement E. Vose.

Allen v. Carmen was assigned to United States District Judge Thomas F. Hogan who proceeded to handle the litigation with dispatch, setting a tight briefing and hearing schedule which he followed strictly. But the Judge did deny our petition to intervene converting it to the somewhat less favorable status as *amici curiae* rather than as a party. He did permit our attorneys to engage in oral argument and accepted our briefs as well. On December 16, 1983, Judge Hogan heard oral arguments in the case. He announced his opinion only two weeks later, on December 30.

Judge Hogan found that the *Chadha* case is applicable retroactively to the 1974 Act provision of a legislative veto. He himself stated, toward the end of his 44-page opinion, that this would simply delay the opening of the papers. The reaction of the National Archives officials in charge of the Nixon Project has been a certain relief at Judge Hogan's wrist-slapping ruling. They are proceeding to redraft and reissue the administrative regulations—this time they will not be submitted to Congress—and conforming to what Judge Hogan has ordered with the expectation that the papers can then be opened sometime in 1985 or 1986. It may be that the Nixon aides associated with the Reagan administration have thereby achieved all they wish—delay opening the Nixon White House Special Files until the November 1984 elections.

Clement E. Vose
Wesleyan University

Limiting Talkative Panelists

Editor's Note: The following letter is addressed to Thomas Mann, APSA Executive Director, and is reprinted here with the writer's permission.

Dear Tom:

As one who has attended, and participated in, APSA meetings since 1946, I sympathize fully, and second eagerly, Philip M. William's ably outlined catalogue of complaints regarding our annual meetings (*PS,* Winter 1984, pp. 8-9).

But if I were confined to merely *one* of the many points *cum* plaints he so justifiably recited, it would be the more or less universal failure of those who head the panels to exercise their authority to harness droning paper givers and talkative panelists. Chairpersons unwilling or unable to canalize participants within reasonable time limits ought to abstain from serving—and program heads could do considerably more to crack the whip. Ten minutes for each paper giver and five

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minutes for eacn panelist will do very nicely, indeed.

Henry J. Abraham
University of Virginia

Reporting Hispanic Enrollments

To the Editor:

In your winter 1984 issue *PS* presents an analysis of Ph.D. enrollments in political science departments. The exclusion of Hispanic students is very disturbing. After many years of ethnic political mobilization in the Hispanic community it is widely accepted that underrepresentation in the professions is one of the significant problems affecting this minority population. The problem is compounded by the lack of statistical visibility as exemplified in the *PS* report. I suspect that the data revealing declining black enrollments would also be true, if not worse, for Hispanic graduate students.

I urge that APSA should collect, and report, data on Hispanics in the profession in its future reports.

Harry Pachon
CUNY, Baruch College

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