The law school faculty may be violating the Michigan Open Meetings Act by limiting student and public access to faculty meetings. Both a Michigan Assistant Attorney General and the attorney for the University of Michigan say that, making certain findings, a court could find the faculty’s present meetings policy illegal.

Whether the issue will find its way into court is another question, and one which the next session of the law school Student Senate is the most likely to answer. The Senate isn’t the only body with standing to sue, but is probably the most likely candidate.

The legal status of the faculty’s current practice of permitting only three designated student representatives to attend its meetings has been questioned since it was established five years ago. But that practice has gone without legal challenge, both when it was first adopted, and when the faculty began last year to condition Res Gestae coverage of the meetings on the ground that no statements made at the meetings be attributed to individual faculty members.

The Senate, however, recently obtained a copy of a 1979 court order which enjoined the Wayne State University Law School faculty from closing its meetings. On facts similar, though not identical, to those present at Michigan, a Wayne County Circuit Court found the Open Meetings Act applicable to faculty—and not just University Regents’ meetings.

Because Senate President Doug Ellmann’s term is nearly over, he plans no action before he leaves office on April 15. The matter was discussed at Monday night’s Senate meeting, no action was taken, and the issue appears headed for the next Senate President’s lap.

Possible Open Meetings Act Violation

In short, the Open Meetings Act applies public bodies empowered to formulate and implement decisions affecting public policy. If the Act applies, then such bodies are required, with certain limited exceptions, to conduct their meetings in public.

The position of the Regents, Dean Terrance Sandell told the R.G. last week, “is that faculty meetings don’t come within the Act.” The reason is that following passage of the Act in 1976, the Regents moved to reserve ultimate decision-making power over law school activity, a move which, according to University Counsel Dick Daane, rendered the law school faculty an advisory body only. And since then, the Michigan Attorney General has issued opinions finding advisory bodies outside the scope of the Act.

But calling the faculty’s function “advisory” may be a conclusion unsupported by the facts. In practice, the Regents rarely concern themselves with law school faculty decisions, and indeed, rarely confront them at all.

Regent Nellie Varner, for example, says that in her one year on the board, “I can’t recall anything specifically concerning the law school coming up on our agenda.” And Paul Brown, a
Student Gets Hit With $533 Parking Tab

from page one

Q. It must have been kind of a shock when you headed down to the police station. Did you know that the tab was going to be that much?
A. No. I'd received a notice from the Ann Arbor Parking Bureau that said I had thirteen tickets outstanding. They told me then $280. Then I walked in there with Big Al Levine—it was a rather rude surprise.
Q. So did you just pull five "C" notes out of your pocket and pay up?
A. Oh, I had paid off a good twelve tickets already.
Q. So, you know, cruel and unusual punishment.
A. Eighth amendment?
Q. By the way, there are people who've told me that there have been a lot of times you have to park in a metered spot. Then you're gone for two seconds and the meter maid is there.
Q. Did you complain to anyone down at city hall?
A. Well, I talked to some traffic referee down there, but it didn't do any good. He was your basic peon.
Q. Do you think that you were treated fairly by the city?
A. Not really. See, they have this system where, if you want to protest the parking tickets against you, you have to post bond for the whole amount of your tickets. Since I didn't have that much money, I had to go on their "revenue payment plan," a system where, if you want to protest anyplace to park around here, and a clear­ly excessive, especially considering that there is hardly anyplace to park around here, and a lot of times you have to park in a metered spot. Then you're gone for two seconds and the meter maid is there.
Q. Is your ticket prowess limited to only parking tickets, or have you picked up moving violations as well?
A. Oh, I've had my fair share of those. Not many speeding tickets but I've had rather bad luck with "wrong way on a one way street." And the no left turn also.
Q. Since you seem to be such an expert at acquiring parking tickets, can you give the reader any tips as to how they can avoid a similar plight.
A. I think so. You know, I went about two years without getting nabbed, and the only reason I eventually did was because I had to prepare for Rosen­zweig's tax class.
Q. I don't quite see the relationship there...
A. Oh, well, I had to leave my car in the same spot for three days. You have to keep moving your car from street to street, basically playing the shell game. The other way to avoid getting caught is to take the front license plate off and then back real close to a car so they can't see your back plate. Actually, I can think of a couple of others...
Q. That's enough, Kinz. I don't think I can take any more.

Q. How much is the entire amount for the year?
A. The whole ball of wax? I'd estimate, uh, $530 plus . . . I'd say $650.
Q. Where's your car parked now?
You got a quarter in the meter?
A. The car's on Oakland right now. I'm thinking of buying a bike.
Q. Well getting back to a more serious thing, I thought the tickets were only five bucks apiece—how did they wind up being so expensive?
A. Well, I think they escalate from three or five bucks to eight after a week. Eventually those three dollar babies get up to eighteen dollars.
Q. Don't you open your mail?
A. Like I said, I was busy.
Q. Now someone told me that there have been a lot of parking tickets against you, you have to post bond for the whole amount of your tickets. Since I didn't have that much money, I had to go on their "revenue payment plan," and couldn't challenge on the merits.
Q. By the way, there are people who've told me that there have been periods of time when you've lived out of your car. Let's put it this way. It's cleaner than my room.
Q. Is your ticket prowess limited to only parking tickets, or have you picked up moving violations as well?
A. Oh, I've had my fair share of those. Not many speeding tickets but I've had rather bad luck with "wrong way on a one way street." And the no left turn also.
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Q. That's enough, Kinz. I don't think I can take any more.

MARK YOUR CALENDAR!
The 1982 Law Revue Talent Show is coming soon
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at 8 p.m.
—Lawyer's Club Lounge
—See faculty and students make it into the big time

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The Wheels of Injustice

by Peter Friedman, Peter Levine and Ned Miltenberg

In the early 1970's Roger Trenton Davis was sentenced for drug offenses. He was convicted, fined $20,000, and sentenced to 40 years in prison. After he was denied appeal in the Virginia courts, Davis petitioned the Federal District Court for a writ of habeas corpus. Davis had four factors working in his favor:

1) the average sentence at that time for drug offenses was three years and two months;
2) the prosecutor in the case was urging Davis's immediate release. He noted the "grave disparity in sentencing" and called it a "gross injustice";
3) the maximum permissible penalties for far more serious crimes were much shorter than the sentence Davis received. For example, the maximum penalty for voluntary manslaughter was forty years; and
4) the Virginia legislature also concluded that sentences of the type Davis's were excessive. In 1979, it reduced the maximum permissible sentence for each drug offense from forty years to ten.

According to the District Court held that Davis's sentence was "grossly out of proportion" to the crime committed, and was thus "cruel and unusual punishment" in violation of the Eighth Amendment. Sitting en banc, the 4th Circuit Court of Appeals affirmed the District Court's decision.

Last January, in a split decision, the U.S. Supreme Court reversed the Court of Appeals. The six member majority declared that a forty year sentence for possession and sale of nine ounces of marijuana was excessive, and Davis's sentence could be measured, and reimagined in the light of the decision. The Court reversed the lower court's decision, and remanded the case for a new sentencing hearing.

The majority decision stated that where there were no objectively justifiable grounds by which to judge the harshness of Davis's sentence, the discretion of the trial judge was confirmed. The majority recognized that "the imposition of a life sentence for overpossession and sale of nine ounces of marijuana was excessive, and Davis's sentence could be measured, and reimagined in the light of the decision. The Court reversed the lower court's decision, and remanded the case for a new sentencing hearing.

The dissent sharply disagreed with the majority's view that there were no objectively justifiable grounds by which to judge the harshness of Davis's sentence. The dissent concluded that while legislative actions are presumed to be valid, this presumption "cannot justify the complete abdication of our responsibility to enforce the Eighth Amendment."

It has now been eight years since Davis received the forty-year sentence. His only remaining hope for freedom is to have his sentence commuted by Virginia Governor Charles Robb. A petition in support of Davis's effort to secure commutation has been endorsed by several faculty members and student groups, including the Student Senate and the National Lawyer's Guild. This petition is posted throughout the Law School, and will be available for signature Thursday and Friday, April 1 and April 2.

Ousted Brinks Heist Attorney to Speak

To the editor:

When does an accused lose the right to be represented by the attorney of his choice? Answer: When the judge disagrees with the politics of the attorney.

The Ann Arbor Chapter of the National Lawyers Guild, the Black Law Students Alliance, and La Raza Law Students will be sponsoring a speech by Chokwe Lumumba, a Detroit-based attorney who will challenge the right to represent his client because of his political affiliation on Tuesday, April 6, at 7:30 p.m. in Room 116, Hutchesons.

Mr. Lumumba is the Minister of Justice for the Republic of New Africa and has represented many political dissidents. Following the Brinks robbery in Nyack, New York, Folani Sanami-Al (Cynthia Boston) was arrested by 20 FBI agents and police officers, four Air Force SWAT teams, three police dogs, and two helicopters in her Mississippi farmhouse.

The FBI followed expedited procedures to extradite her to New York, refusing to allow her to presenting evidence in New York. Since the evidence was presented in New York, the police were forced to release her.

Although there was not enough evidence to link her with the Brinks robbery, she was called before a federal grand jury investigating "terrorist" activities. Ms. Boston wanted to be represented by Mr. Lumumba because they are members of the same political organization, and share common values.

Although Mr. Lumumba was a member of the federal bar in Michigan, the judge would not allow his admission in New York, usually a routinely-granted request, because "he believes in the violent overthrow of the United States."

This is an unsophisticated analysis of the Republic of New Africa position, and in effect misstates the ground rules in This case. The main point is that nothing Mr. Lumumba had said in connection with the grand jury proceeding could be taken as an immediate incitement to violence; thus his speech was protected speech.

This case is currently on appeal to the Second Circuit. The judge's ruling has ominous implications for the First Amendment rights of attorneys and the Sixth Amendment rights of defendants who are political dissidents.

We welcome the law school community to this discussion of the important and timely topic.

Clarence Andrews, Managing Editor

Ousted Brinks Heist Attorney to Speak...
The R.G. Wants You

The R.G. is interested in hearing from any first or second year students who are interested in joining the staff for the 1982-83 year. While our publication is rarely cited by the Supreme Court, it does have its advantages. We are the only law students in the country to print, and people will even read what you write. Finally, and most important, we have an awful lot of fun putting this paper out every week. And if you don’t think that what you have to say is as important as what you hear in class, then you’re wrong. According to your classmates, the R.G. is furtively reading your work and finding what they want (within reasonable limits of good taste, of course.) Moreover, with our publication, you can actually get to see your name in print, and people will even read what you write. If you would like to meet the staff and see what we do, our meetings are held on Wednesday at noon in Room 311, off the R.G. drop box. Or drop by the office any time or leave us a note in the R.G. drop box.

The JOHN MARSHALL LAW SCHOOL of Chicago, Illinois has announced its first annual Benton National Moot Court Competition in Information Law and Privacy. The competition will be held on October 21, 22, and 23, 1982.

Teams interested in participating must register by April 16, 1982. Competing teams will receive the problem by July 16, 1982; briefs must be submitted by September 27, 1982. Teams may consist of one, two, or three students, but only two students will be permitted to make oral arguments.

The winning team will receive a $2,000 cash scholarship: a $1,000 scholarship will be awarded to the runner-up school. For further information, see Professor A.

If YOU HAVE TAKEN a position or are still in the job market, please fill out the appropriate form (blue for job, pink for no job) available on the table in front of Room 100 or in 210 Hutchins.