Memorandum

To: Bob Glass
    Sue Alexander
    Sonny Reisz

From: Peter Martin

Subject: Upcoming Meeting   Date: Feb. 6, 1991
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This memorandum responds to the note I received from Bob Glass on
February 1.

In a memorandum to Sue Alexander and Sonny Reisz (Subject: List of
Issues That Need to be Addressed) I set out the questions I hope
we can address in the upcoming meeting. Most of them relate simply
to follow-up action on the online version of the Social Security
materials. Bob's note asks, in effect, for elaboration on part III
of that memorandum and also inquires about what our contract terms
the "process description". I shall try to address both points in
terms that will, I hope, help frame the issues we must address
together. The contract is a backdrop for what follows but I take
these issues up in a order that rests on where we are, together,
in the winter of 1991 not where the contract contemplated we would
be a year ago. (If there is any confusion about how we ended up
at this point in relation to various deliveries contemplated by the
contract I can furnish a full chronology, amply documented, but so
long as we are trying to identify terms on which we can continue
to work together that strikes me as an unnecessary distraction.)

I. My Interest

Before getting to the particulars let me be very clear about my
interest in the relationship. What has propelled me for the last
two and a half years is a conviction that electronic media make
possible new and more powerful forms of packaging information and
expertise. I am eager to have what I create in pursuit of that vision
used, to learn from that use, and to encourage the creation of similar
works in other fields. Because we are in the midst of such
technological change and resulting shifts in work environment I fully
expect that this year's optimal form for an "electronic treatise"
will swiftly become obsolete unless there is at least as much
attention to its form and functionality as to its information and
expertise content. That excites me.

What I have found so frustrating during the time I have worked with
MDC on this project is the lack of similar vision or commitment in
return (I am referring not to individuals but the institution).
I trust I don't have to remind you that a year ago when the CD-ROM
arrangements that seemed so firm in the fall of 1989 were undone
by MDC it was I not MDC that proposed we shift our immediate attention
to an online version or how close to pulling the plug on that endeavor
MDC was in the autumn of 1990 or of the energy I had to pour into
salvaging the project when the task should have been working on it.

What I am eager to avoid, for my sake and yours, is the risk that future work of mine in the electronic information field will be mired in MDC's corporate indecision, confusion, or indifference.

That leads me to the matter of compensation. I haven't received a cent under the contract with MDC on a project that amounts to something like two full years of effort. MDC has received enormous value from me in advice, prototypes, outlines of authoring systems, site visits with me and my staff, identification of data for inclusion in LEXIS and of errors and omissions in the current collection. Some of what MDC received from me the company decided not to capitalize on. That does not mean it had no value, but instead that my effort was a form of R&D or test development undertaken when West's CD-ROM was viewed as a threat. For example, all of my time and effort in creating a CD-ROM prototype for MDC, in educating Bill Baker and Dan Davidson on how to set up a process for building a CD-ROM based treatise and my investment in working out the specifications for an appropriate software platform with Pat Guiant, MDC's consultant Jon Boring, and personnel from Owl International were dissipated along with MDC's out-of-pocket sunk costs when MDC unilaterally decided not to go forward with the CD-ROM. Some of the value I have furnished under our working relationship has been independent of CD-ROM or online files and has resulted in LEXIS enhancements (ranging from advice on the Window's session manager that produced changes to advice on the content and organization of public domain materials in LEXIS). Most important to me is the value I have delivered in the form of a specialty law collection that delivers information and expertise with structure, form, and functionality that are unique. So long as we can find an acceptable framework for sustaining and developing this base, I am content to disregard all the rest. If we can't, I am not. The contract does provide for consultation without charge (12.1 and 12.2), but that is within the context of an agreement on MDC's part to publish on CD-ROM (1.3) which it did not do. (As noted above my principal motivation is getting my work out and used. My time is more valuable to me than it is to the market and it is very valuable in the market. As consultant or arbitrator, I command several hundred dollars an hour.)

II. Future Possibilities

A. Minimum Commitment

The original contract set a term of five years from the date the database is first made available online. I would suggest that a minimum relationship between MDC and myself, consistent with where we are and how we've got here, has the following components:

    1) A five year commitment on both sides to Martin on Social Security online with compensation coming from royalties for its use at the contract percentage. We can and must spell out what that means in terms of updates, content, enhancements on my part and marketing, training, responsiveness on MDC's.

    2) An agreement on MDC's part that I can proceed to develop

other electronic versions of portions of the same work (e.g., CD-ROM) designed to be used together with the online files and that I am free to distribute them independent of MDC unless we can, at the time, agree on terms for MDC distribution.

3) Acknowledgment by MDC that the novel online structure, format, and functionality represented by my TABLE file, the companion coded data files, and the rest of the treatise cannot be copied for other specialty files without our reaching reasonable terms.

4) And finally, an understanding that my future electronic projects (that is works in fields beyond the current scope of the Social Security treatise) will be designed, built, and distributed independent of MDC, with no more support from MDC than it furnishes other legal academics in the form of LEXIS and NEXIS time and software. I will, of course, undertake not to reveal any MDC proprietary information that I have or will acquire in connection with the Social Security material in these other projects. I am also willing to give MDC an option on such works, but only on condition that the time for exercise of that option be short and clearly specified.

B. Possibilities Beyond the Minimum

1) I remain open to having MDC/Michie publish the CD-ROM version of this work. My letter to Jim Roemer, dated December 26, 1990, sets out my ideas and concerns on this front.

2) I would be pleased to join MDC in creating the framework for online publication of other works of this kind, assisting in a variety of ways, including: a) recruiting authors, b) advising on fields, c) helping authors and MDC staff build an authoring system that works with less computer-involved authors, d) reaching an understanding over the use of the structure, form, and functionality embodied in my online work in other specialty collections.

III. The Process Description Referred to In Our Contract

A. As Already Furnished

Bob's note inquires about the process description which the contract (1.4) indicates I planned to write. It is my view that I have written such a description and MDC has received it. From the start, I have communicated my work plan and process to MDC in writing and in person. I trust your files include the following key "process description" documents that lay out the "technological, data collection, and editorial steps" I have employed at each stage of this long journey:

Functionality Description: Social Security Treatise and Database (July 19, 1988)
Design Requirements of a CD-ROM Based Reference System Capable of Replacing Print Materials in a Field of Law (presented at a conference in May 1989, copy to Kathryn Downing and Jim Roemer in February 1989)
The full series of issue papers sent Sue Alexander in 1989

My "next steps" memos to Sue Alexander following the April 1989 meetings in Dayton

My memorandum to Sue Alexander, Bill Baker, and Pat Guiant on "The Decisions -- Relationship of My Working Collection, CD-ROM Library, On-Line Library" (summer 1989)

My several memoranda on the pagination problem

My memorandum entitled "Inventory of Work to Be Done -- Writing, Editing, Database Assembling and Enhancing" (first prepared April 24, 1989 and subsequently updated July 12, 1989 and November 30, 1989 -- each time with copies to MDC)

The document entitled "CD-ROM Treatise and Library on Social Security Law -- Aim, Content, and Functionality" (Feb. 12, 1990) and the following communications with Michie people over software platform

My memorandum to Kathryn Downing, Sue Alexander, and Sonny Reisz on "Online Social Security Library" (Feb. 27, 1990) and all the following documents on how the issue codes would be implemented (copies of which I sent Eric Brown at his request during the fall of 1990)

In addition to those documents, I have responded every time MDC has asked to come and see my process. Bill Baker, who was at the time charged with preparing an author's toolkit to speed up the process of learning from my work, and Dan Davidson spent a day here in June 1989. I furnished them a document entitled "The Tools and the Process," a flow chart and lots of demonstration. Later that summer I did the same for Pat Guiant, Jon Boring and the people from Owl.

The editorial steps and ways of linking author mapping of a field to decisions, regulations, and statute are reflected in the TABLE documents that you have.

B. A Process Description of a Different Sort

If MDC is seriously interested in replicating this specialty collection with other authors in other fields, it may well want a different sort of document from me. What we both have is a description of all that we have done (from the technology and editorial steps to the picayune). If after this flow of information, you still have questions about my software tools or procedures I will be happy to respond in the form and degree of detail you want -- within the framework of the contract. However, were we (MDC and I) to set out today to build another specialty collection in private pensions or intellectual property or you name it, we would, I hope, manage to map out a process far more direct and efficient than the path we followed on this social security project. I indicate above a willingness to assist MDC in doing that in connection with future Martin projects or others but working on that would take us beyond the existing contract.

Memorandum
To: Sonny Reisz
From: Peter Martin
Subject: Treatise Format and Descriptor Pages   Date: Feb. 13
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At your request I given thought to how I want the descriptor pages to be revised
to reflect the addition of a file denominated "treatise" and the movement of some
of the table material into the treatise.

Here is my proposal:
1st screen:
-- P.MARTIN ON SOCIAL SECURITY LAW --
TABLE 6 Table of Topics
SOCSEC 6 Social Security Treatise
PMSSCA 6 Selected Cases

2nd screen:

                    DESCRIPTIONS -- PAGE 6 of 6
NAME   FILE   NAME   FILE

TABLE Table of topics covered   SOCSEC   Treatise on Social Security Law
       in P. Martin on Social   written by Prof. Peter Martin of
       Security Law, including for   Cornell Law School. Treatise
       each an explanation of topic   covers: 1) Old-Age, Survivors,
       scope, a searchable topic   and Disability Insurance Benefits
       code, author-prepared   under the Social Security Act,
       searches, as appropriate,   2) Supplemental Security Income
       and ready to execute   benefits based on disability,
       references to the   and 3) related attorneys fees
       treatise. For most purposes   issues. It provides overview,
       selecting this file is the   topic summaries, and detailed
       simplest way to find what you   treatment, furnishing ready to
       want in this collection of   execute references to the
       Social Security materials.   Social Security Act and regu-
                                            lations.

                                  PMSSCA   Federal decisions on Social
                                            Security law selected and
                                            classified according to topics
                                            in the Martin treatise.

Cornell Law School
Myron Taylor Hall

Memorandum

To: Jim Roemer, Don Selby, Andy Wyszkowski

From: Peter W. Martin

Date: February 15, 1990

Subject: How Much Text Can I See At Once?

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    Seeing the materials under FOLIO yesterday left an impression that led me to perform an experiment this morning. I want to share the results with you.

    A near unanimous response of doubt I get from lawyers and legal academics when I describe my project has to do with how much more they say one can see on a typical print page than on a single computer screen. This concern tends to be most pronounced with those who, in fact, have computer experience in the form of using a computer to write. They are acutely conscious of the limitations of a window on their writing that is 24 lines down by 80 characters across. That is why so many edit on hard copy rather than directly at the computer. My response to this concern takes two directions. One is to stress that my product will be capable of delivering excellent print copies on demand. (We taked about the importance of this yesterday.) The other is to observe that those who express this concern are probably not familiar with the quality of present graphic display (one of four items in my technology predicate). I note that the display area on the standard computer monitor, measured in inches, is roughly the size of a printed page of a law book. The limitation that concerns them, therefore, has less to do with the size of the page than the quality of the display.

    While we talked yesterday about the importance to me of graphic display and interface, we did not talk about the capacity of a graphics based display to deliver a substantial bigger window on the relevant text. Seeing statutes under FOLIO drove that point home to me.

    Here is the experiment I performed. I took a portion of the Social Security Act and a portion of a Court of Appeals decision that you can find as GUIDE documents in the May prototype. I then took the identical text into a character based display, making no changes in format. For this experiment I assumed that a FOLIO window with zoom gives the user an area of 23 lines and 78 characters across. (The window is defined by a line on the top and bottom and a character demarking both right and left side.)

    With the font size I have used for both statute and decisions (10 point) the Guide window on the underlying text is over 40% larger. And with Guide under Microsoft Windows the user/reader can choose a smaller

font size(8 point). [Recall that under Guide the author defines the initial display but the reader can choose a larger or smaller font size.] A screen of the Social Security Act at 8 points provides a larger window on the underlying text than does LCP's printed page.

        Attached are the print versions of the relevant texts marked to show the amounts of text displayed: a) under a fully zoomed FOLIO window, b) under a fully zoomed Guide display using the 10 point font of my prototype, and c) under a fully zoomed Guide display with the font reduced to 8 points.

        Why do I stress above that I made no format changes? I do so because I believe I observed a lot of "white space" in the presentation of the statutes under FOLIO. With a character based window of 23 lines and 78 characters there is a strong tendency to smash as much text in as one can. The formatting of material in the on line system does that, within the body of a statute or decision. The resulting visual clutter makes it difficult (when compared with print) to separate parts from subparts. Lacking a variety of font sizes and types to provide separation, a laudable counter tendency which I think characterizes your prototype FOLIO materials is to make use of space to separate logically separated units (a carriage return, line feed between one subsection and the next). If this tactic is followed (and I am far from sure the Michie prototype employs it), the difference between the amount of a law text displayed under FOLIO and Guide grows even wider.

        Please add this (Guide's greater capacity to display the underlying text) to the list of functional differences between the two platforms that, in my judgment, may have a profound effect on user acceptance of such a novel reference tool.

A. The importance of a working electronic collection of documents.

In building this work for LEXIS, I worked for two years apart from LEXIS -- in the sense that I worked with downloaded full text versions of the decisions that are now coded into my footnotes. What did that allow that the online version could not? First, it permitted me to run searches on this distinct collection -- no garbage, my own collection of Social Security Cases and subsets of it, recent cases, Supreme Court decisions. More importantly it allowed me to add my own keywords or codes to those documents and use them as part of a full-text search -- building by increments the system that now resides online. How? The available tools have changed over time -- my current set include Magellan which allows me to index the decisions in full text, to select a document, read it, load it into my favorite ASCII editor and using a set of macros built with SuperKey add my topic codes to its text, return to Magellan and reindex.

A project that consumed huge amounts of learning on both sides was working out a system for allowing the author (me) to submit lists of documents I needed and have them delivered back in reasonable completeness in usable format. Even at the end of the build of my retrospective collection (as distinguished for the process for updating that collection which has been in place for nearly two years) MDC had no effective means for keeping track of what it had delivered and had not of the documents I had requested. The full burden of keeping track of requests and deliveries lay on the author side of the relationship.

B. The importance of a true database that works well with texts in keeping track of the pieces.

I wish that Magellan also could perform standard database operations on the distinct fields of information within documents, but it does not. So I maintain a separate database, using Notebook II, that contains some of the same citation information, the file name of the full document, plus a variety of additional editorial material I have collected over time. This database which was the platform from which I requested documents for my retrospective collection and logged in the deliveries.

C. The importance of a system for ordering the documents and bridging the gap between the online system and DOS.

Anyone who has worked with some of these same elements knows how much thought and experimentation can go into the smallest details. For example, if one is working with a collection of several hundred decisions, in full text, how does one set up the file and directory structure. How does one name the files within the limits of DOS (assuming that each decision is a file and that the file names should be eye and head compatible --that they convert easily into more standard citations -- moving either direction). With thousands of decisions, I needed to establish a convention and implement it automatically. I created a highly functional convention that I shared with MDC. It is now built into the utility that MDC used to create the decision files it downloaded for me in the summer-fall of 1989. And I now have a utility, programmed in basic that takes my weekly downloads, chops them into decisions, stamps them with the download date, and builds a file name from the LEXIS citation -- the first character identifies the court --e.g., A for court of appeals, D for district court -- the next two characters give the year -- e.g., 90 for 1990 -- and the next five the LEXIS cite number (packed with zeros from the left to a full five characters). This allows the extension to be reversed for a set of labels telling me where the decision version sits in my classification process. Another utility takes the report of the same eclipse searches that comes in DOC# format and converts it to a file I can import into Notebook II.

D. The importance of keeping the treatise in a database.

I found early on that keeping the treatise as a flat file was near impossible because of the need to manage all the links or references. Uncertainty about the precise format, software environment, or indeed medium (CD-ROM or online) also pushed toward writing and maintaining the treatise text within a database (Notebook II) that is capable of generating a report (documents to transmit to the ultimate platform(s)) in a variety of report forms.

What a Computer-Based Legal Reference Work
Can and Must Deliver

Peter W. Martin
Edward Cornell Professor of Law
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I. Introduction

For two and a half years, I have been working on a project that I have most often described to law people as an electronic treatise on Social Security Law, a phrase that at the same time offered a comforting explanatory link to the familiar but also resonated with a puzzling and, to many, quite mysterious science fiction sound. The idea of a computer-based treatise more often ended discussion than stimulated it. During the early stages that may have been exactly what I wanted for I wasn't at all sure where the project might come out, although I was almost foolishly confident about the direction of the journey. "Electronic" of course said something about the storage and distribution medium, but nothing about feel and function -- how such a new form of legal reference would work. My aim, short and simple, was creation of a computer-based legal reference work that could replace print sources in the field, or at least place print in a supplemental rather than central role in the research process.[1]

Last November, the first piece of that project, in many ways its core, went "up" on LEXIS, making it possible for me to relate my views of what an electronic treatise might do and be through a concrete illustration.[2] At the moment it is, however, at least as much an illustration of the limits such a work must overcome as of the promise of this type of reference.

II. Why An Electronic Treatise

The conviction that has propelled my work over the past two and a half years is that the era of the electronic treatise has arrived. This belief rests on several interconnecting elements that I shall call the technology predicate:

* The first element has to do with the completeness and wide distribution of digitized law information. A full set of primary

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[1] Here and elsewhere except as the context says otherwise I am referring to print as a source of information as distinguished from print as a form of output for computer-based information.

[2] Martin on Social Security Law is located in the PUBHW library of LEXIS. Within that library the point of entry is the file denominated TABLE.

materials in most fields of law now exists in digital form,
distributed online by Mead Data Central and West.

    * A second element has to do with the maturity, the
sophistication of the software environment through which users access
that information. Both WESTLAW and LEXIS offer a fairly rich
hypertext environment, user options, navigation moves, command
concatenation, flexible display modes, download and print
capabilities.
    * A third element of the technology predicate has to do with
the software and data storage capability at the user's end -- the
rapidly spreading operating environments that allow operation
through a point and click, graphic interface and the fluid connection
of legal information retrieval software to writing and local data
storage applications. Add the availability of cheap and reliable
local data storage and the result is an explosion of options
for authors of electronic works, a dramatic reduction of the expertise
required of users, and a quantum increase in the possibilities for
integrating legal research with other computer-based user work and
work product.

    * A final element concerns the hardware delivering information
to the user/reader -- monitors, computers, modems, printers.
Dramatic improvements in these components of a computer information
delivery system make print on demand and even reading from the screen
competitive with print-based systems.

    Because these developments have resulted in a rapid system for
retrieval by conventional citation, with review online and rapid
print on demand or download, they have in a sense converted most
print materials to mixed media reference works. Print references
can be followed precisely as written into the electronic library.
At least one print publisher, West, has gone further and incorporated
related database searches as references in print works. The media
cross over creates an awkward interface but hardly an impossible
or even severely intimidating one. And when the print versions of
the referenced documents are distant, the cross over can seem
downright smooth.

III. Advantages An Electronic Treatise Might Offer

The advantages an electronic treatise can offer over print fall into several distinct categories.

A first advantage is information density or compactness which can translate into both reduced cost and increased covenience. This is a powerful advantage but not enough by itself in many areas to pry people away from print.

An important second area of advantage has to do with how users find and understand and relate information. With suitable software and hardware the screen offers a better window on the relevant legal texts than a printed reference collection. To begin, a reasonable professional workstation today can (although current online systems do not) deliver as many characters, symbols, different fonts and other cues to organization and meaning as a printed page. But that is simply attaining parity. With suitable software the reader need not be burdened with details or references he does not wish to pursue, a clear gain over print. With suitable software the reader can follow references within and across document types immediately and return with the same speed. With suitable software the reader is not limited to references seen and coded by the author but can build on or add to them.

A third area of advantage is user appropriation and annotation. In a way impossible with print, useful material in an electronic reference can be appropriated easily to support the user's work. With suitable software the reader can retain his own views and experience within the same information structure (electronic annotation, if you will, and more).

Integration with other information sources is a fourth area of advantage. Updates can be integrated seamlessly; they need not be segregated in supplements or pocketparts. Bridges between different online information products and between local data (.e.g, CD ROM) and online legal information can be far smoother than their print counterparts.

IV. Which Area of Advantage Is Most Important

What is most different about an electronic treatise? The most signficant difference, I now believe, lies in the footnotes or the connections between author text and underlying legal source documents.

Footnotes are a salient feature of law writing. They are maligned, misunderstood, and misused.   Much of the abuse flows from confusion about the many roles of the footnote and a failure to distinguish among different types of law writing -- the judicial opinion, the brief, the opinion letter, the journal article aimed at other scholars. The type of footnotes referred to here appears a treatise or law journal article which sets out to map a law domain for practitioners and judges and others. Whether in fact through a footnote or through a reference embedded in the text, the author of such works routinely links the description, analysis, or mapping of the text to relevant authoritative law documents. In most cases, these are documents the reader whose problem lies around the point will want to consult and which may themselves provide further linkages.

Let me make a few observations about how these print references work, at the risk of boring you with a restatement of the obvious.

* Footnotes reveal the fundamental dependence of most treatises on a library of referenced material. The typical treatise carries an implicit assumption that the reader has access to most of the material cited in the text, although not necessary precisely at the time of reading. These books do not stand alone.

* Most readers of most treatises don't read them from beginning to end. Instead the typical treatise user enters the book with a problem seeking some mixture of: overview (assisting issue identification), legal analysis of the problem area, and pathways into the law, that is pathways to what counts as primary authority in our legal system -- statutes, regulations, court opinions and the rest.

* A reader in pursuit of a solution to a particular problem can ignore many footnotes, but will in the end, if fortunate, find some few of critical importance.

* Treatise readers expect a high level of selectivity or author judgment. There may be points on which all relevant documents can be fit into a short list and there the reader may expect a footnote to be comprehensive. But more commonly there will be many more decisions on the issue than the page will bear or the reader will wish to consult. Readers expect the author to screen for validity and select using other criteria as well such as precedential weight, clarity, degree of recognition of the soundness of the position. (Authors who cite cases overruled at the time of publication are consigned to one of the hotter regions of hell.)

* Readers also expect updates, new editions, pocket parts. The author of a journal piece can dump it and run, but the author of a treatise that enjoys any acceptance enters into an ongoing relationship with the work, including or perhaps even especially its footnotes.

IV. Electronic Footnotes

The most immediate gains of electronic footnotes relate to some of the practical limits of those in print.

* In many work settings following a print reference is difficult or impossible (at the moment). Consequently, readers follow fewer references than they would if the move were easier, they follow references later than they might otherwise (saving a list of references to pursue), and authors respond with far more quotation, excerpting, and summarizing than they would if readers had swift, easy access to the cited text.

* Space, visual clutter, information management questions limit references in print. The tradeoff is resolved differently in the typical treatise and the typical annotated statute, but both illustrate the problem. Consider the many good reasons, other than author sloth, why few if any good treatises furnish the leading decision from each state or U.S. circuit on each point. Yet that is a feature that most readers in most problem situations would find useful.

* Updates are a major problem, no matter how serious author and publisher are about keeping the work current.

Treatise footnotes are embedded in a matrix or map created by the author. In many fields, an important set of coordinates is furnished by statute or regulation, but in few fields can a good treatise simply adopt the organizing scheme of the underlying legislation. This is especially true of a statute like the Social Security Act which has experienced so much change by tinkering. The original orderliness of the statute has long ago been covered by a mosaic of amendments -- many simply fastened to the nearest section at hand.

Following the author's map, the reader finds an area or topic that bears on the problem or issue that prompted the research. The software of both LEXIS and WESTLAW already enable the straight forward, static footnote move -- the move from a listed reference to the document and back. The powerful difference between this electronic footnote and one in print is that it can be followed immediately when and where that fits the rhythm of the reader's pursuit of understanding.

Both LEXIS and WESTLAW also furnish efficient ways to pull in a large number of items. Consider the situation where in print the reference would be et seq. or this through that or a long list of items. Wild card characters, short hand forms of reference, and

block and transmit software give the reader control over that kind of reference that print does not. Consider a move from a treatise topic to the several relevant paragraphs of a regulation. One way to implement the move when the units are in a logical sense adjacent would be to trace a path to the first and then have the reader shift into a browse mode and step sequentially through. But an alternative that I find more powerful is the group citation retrieval. This move allows the reader to scan the multiple documents in more detail than the standard footnote, but much less than full text. It enables the reader to investigate the material in non-linear order. It enables the reader to search within the set for key words.

The update cycle from author to footnote revision can be very short with an online treatise. Within weeks my LEXIS Social Security treatise contained references to the important amendments contained in the Omnibus Budget Reconciliation Act of 1990. Updates occur automatically when a document that is pulled by a reference is amended while retaining the same citation identity.

It is, however, the dynamic footnote that has me most excited about this medium. This new type of footnote is prepared by the author from the data side. While in fundamental concept it is not new, the computer gives the concept new power and flexibility and brings the formerly impossible within an author's reach. Even with frequent revision the print footnote is a static presentation from author to reader. The idea here is of a footnote search that the reader fires, or fires and modifies, fires and focuses. A search that in effect says to the author's reference work: What has that footnote got today? It is a search that works because the author has coded the data against the footnotes. That is how my LEXIS treatise connects with appellate decisions.

Note the possibilities this opens for dealing with the too many footnote references problem. First of all the retrieved authorities can be stacked in useful order by court and date. They can also be selected and sorted by the user. The result is a significantly different author/reader partnership, with the author doing at once more and less. The user/reader has far greater control over the direction and precision of the reference.

Each document found through an electronic footnote can itself be a spring board for further exploration, through pursuit of its references or other references to it (the citator move).

In sum the principal gains of the dynamic footnote have to do with author/reader treatment of the quantity problem, cross issue selection and other true database manipulations, and treatment of the datedness problem.

VI. Minimum Features An Electronic Treatise Must Offer to Gain Acceptance

My strong conviction is that despite compactness or information density and all the advantages represented by what I have here called

electronic footnotes, a novel reference tool of this sort will not find wide acceptance unless it presents itself in familiar guise to those who are used to print. It must offer all the functionality of print and more. It must be superior to current online resources in many respects. Finally, its advantages over print and current online resources must be dramatic and easily accessible.

Given the state of the art, I believe this to be possible but not easy. In my judgment the desirable minimum electronic treatise package includes the following elements of functionality:

* It should be a Windows application capable of graphic display and should make full use of the Windows graphic user interface.

* It should offer two information selection and presentation features not found in print or the current online systems. The first I shall call expoding detail capability. The system should be capable of displaying a document (statute, regulation, decision) as a list of headings, any one of which can be expoded into full text (in the context of the remaining headings) through point and click interaction. Second it should be capable of displaying a reference to statute or decision(s) as a symbol so that the reader's eye is neither abused nor confused by references it is not interested in pursuing. That symbol should openable to display the references in print-like format before the user commits to moving along the reference.

* The work should have extensive hard-coded links connecting all document types within its collection, including all references in judicial opinions to other decisions, to the statute, and to regulations.

* It must have the capability of delivering a standard form citation for all authority contained on the disk, including all judicial opinions so that the user need consult no other source before quoting or citing material found in the electronic collection.

* It requires the capability of performing real-time searches of all document types, using modifiable author formulated searches as well as user written ones, using author codes or not as the user wishes.

* The system should be capable of delivering first-rate print versions of its contents (so that the user can choose to work with five key decisions as well as the relevant statute and regulation sections in print). With a laser printer that print copy should be as nicely formatted as those delivered by a book.

* Block and copy to notes/brief/memo should be available, without confining the user to a strange or less capable word processing environment. Extracted material should be stamped automatically with a full citation.

* The system needs be able to save the user's location and

searches and also to retain certain user specified default settings.

* Reasonable navigation aids have to be a part of the package.

MDC Process Description Addendum
How Does One Build Such a Reference or Use Such A Reference to Build A Print Work With Static Footnotes?

A. The importance of a working electronic collection of documents. In building this work for LEXIS, I worked for two years apart from LEXIS -- in the sense that I worked with downloaded full text versions of the decisions that are now coded into my footnotes. What did that allow that the online version could not? First, it permitted me to run searches on this distinct collection -- no garbage, my own collection of Social Security Cases and subsets of it, recent cases, Supreme Court decisions. More important it allowed me to add my own keywords or codes to those documents and use them as part of a full-text search -- building by increments the system that now resides online. How? The available tools have changed over time -- my current set include Magellan which allows me to index the decisions in full text, to select a document, read it, load it into my favorite ASCII editor and using a set of macros built with SuperKey add my topic codes to its text, return to Magellan and reindex.

B. The importance of a true database that works well with texts in keeping track of the pieces. I wish that Magellan also could perform standard database operations on the distinct fields of information within documents, but it does not. So I maintain a separate database, using Notebook II, that contains some of the same citation information, the file name of the full document, plus a variety of additional editorial material I have collected over time.

Those of you who have worked with some of these same elements know how much thought and experimentation can go into the smallest details. For example, if you are working with a collection of several hundred decisions, in full text, how do you set up the file and directory structure. How do you name the files within the limits of dos (assuming that each decision is a file and that the file names should be eye and head compatible --that they convert easily into more standard citations -- moving either direction). With thousands of decisions, I needed to establish a convention and implement it automatically. I now have a utility, programmed in basic that takes my weekly downloads, chops them into decisions, and builds a file name from the LEXIS citation -- the first character identifies the court --e.g., A for court of appeals, D for district court -- the next two characters give the year -- e.g., 90 for 1990 -- and the next five the LEXIS cite number (packed with zeros from the left to a full five characters). The extension I reserve for a set of labels telling me where the decision version sits in my classification process.

March 1, 1991

Mr. Bernard G. Reisz
Mead Data Central
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Sonny:

    As I reported on the phone yesterday, the June meeting of NOSSCR
(National Organization of Social Security Claims Representatives)
is June 19-22 in Washington. Today I spoke with Nancy Shor, NOSSCR's
executive director (1-800-431-2804), following up on the suggestion
by a past president of the organization that the program might still
have an opening. Ms. Shor reported that she had not heard back from
all the prospective presenters and would let me know in a week whether
she had a hole. She was enthusiastic and promised a slot at the
October meeting in Chicago if June did not work out. I also indicated
that MDC would in all likelihood be contacting her about a booth.
 The basic facts on NOSSCR you will recall are that its current
membership is slightly over 2,000. It reaches a larger group of
interested parties through a newsletter and through single
memberships being held by one person in a several person practice.
 The organization believes that there may be as many as 6,000
attorneys throughout the country who devote a major portion of their
practice to Social Security issues. (This, of course, does not
include the publicly funded legal services group, the Administrative
Law Judges themselves and others in the Agency, or the federal courts
-- other important segments of the potential market.)

    I have the names of several influential NOSSCR members who would
be prime candidates when we are ready to set up an advisory group.

    I enclose for Rich Pauli and any others interested a focus paper
prepared for the upcoming NCAIR conference on electronic

publishing standards which combines in a reasonably condensed format portions of my Washington presentation with a few other ideas that are scattered through the stack of past communications with MDC and Michie. I also enclose a copy of the paper I did for Baker and Davidson in 1989 on author tools with a 1991 addendum.

Please share this letter with the rest of Wednesday's group (Bob Glass, Sue Alexander, Rich Pauli, and Steve Emmert) for it carries my thanks for a very encouraging session. I look forward to a new era of clear channels of communication.

Sincerely,

Peter W. Martin
Edward Cornell Professor of Law

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Memorandum
To: Sonny Reisz
From: Peter Martin
Subject: Treatise Format and More Sample Documents  Date: Mar. 6
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     As promised last week I am providing some more treatise document samples along with some indication of how they should display online.

     You will observe that the online format has the "look and feel" I developed for the table documents. There are two reasons for that. First, I think that combination of form and functionality works. Second, consistency with the portion of the treatise already up in the table documents has indepedent value.

     This memorandum builds on the memorandum and summary dated February 13. The first document in the attached stack (2 SOCSEC A100) is the first document furnished in a simple segmented form with that memorandum. Ideally, as much as possible of the difference between the two forms can be generated programmatically as the data is displayed. For example, it would be ideal if the top line could be generated from a volume segment that would simply contain the number 2 and a section segment that would contain A100. The aim is to deliver the "lxe or lxt" citation (I gather that it now will be lxt because of the need for browse), followed by a book-like full citation in the form the user might use in a brief or law review article which includes a date that is contained in or derived from the version segment. (I have added a version segment to the list following our conversations.)

     The treatise will deliver its text in a screen or two. Its references will then be available in groups available through a standard set of "p*" moves indicated by a standard menu following the text.

     As I indicated volumes 1 and 3 will have the same segments as volume 2. Not all will be populated for all documents. I am attaching a few sample sections from volume 1 (overview sections) and volume 3 (subtopic sections) with only those segments through segment 11 (text) printed out.

     I trust this gives you enough to undertake the database design. No doubt that process will generate questions or reveal options you will want me to react to. I stand ready to respond promptly.

     Let's get this next phase of the project underway.

A. The importance of a working electronic collection of documents.

In building this work for LEXIS, I worked for two years apart from LEXIS -- in the sense that I worked with downloaded full text versions of the decisions that are now coded into my footnotes. What did that allow that the online version could not? First, it permitted me to run searches on this distinct collection -- no garbage, my own collection of Social Security Cases and subsets of it, recent cases, Supreme Court decisions. More importantly it allowed me to add my own keywords or codes to those documents and use them as part of a full-text search -- building by increments the system that now resides online. How? The available tools have changed over time -- my current set include Magellan which allows me to index the decisions in full text, to select a document, read it, load it into my favorite ASCII editor and using a set of macros built with SuperKey add my topic codes to its text, return to Magellan and reindex.

A project that consumed huge amounts of learning on both sides was working out a system for allowing the author (me) to submit lists of documents I needed and have them delivered back in reasonable completeness in usable format. Even at the end of the build of my retrospective collection (as distinguished for the process for updating that collection which has been in place for nearly two years) MDC had no effective means for keeping track of what it had delivered and had not of the documents I had requested. The full burden of keeping track of requests and deliveries lay on the author side of the relationship.

B. The importance of a true database that works well with texts in keeping track of the pieces.

I wish that Magellan also could perform standard database operations on the distinct fields of information within documents, but it does not. So I maintain a separate database, using Notebook II, that contains some of the same citation information, the file name of the full document, plus a variety of additional editorial material I have collected over time. This database which was the platform from which I requested documents for my retrospective collection and logged in the deliveries.

C. The importance of a system for ordering the documents and bridging the gap between the online system and DOS.

Anyone who has worked with some of these same elements knows how much thought and experimentation can go into the smallest details. For example, if one is working with a collection of several hundred decisions, in full text, how does one set up the file and directory structure. How does one name the files within the limits of DOS (assuming that each decision is a file and that the file names should be eye and head compatible --that they convert easily into more

standard citations -- moving either direction). With thousands of
decisions, I needed to establish a convention and implement it
automatically. I created a highly functional convention that I
shared with MDC. It is now built into the utility that MDC used
to create the decision files it downloaded for me in the summer-fall
of 1989. And I now have a utility, programmed in basic that takes
my weekly downloads, chops them into decisions, stamps them with
the download date, and builds a file name from the LEXIS citation
-- the first character identifies the court --e.g., A for court of
appeals, D for district court -- the next two characters give the
year -- e.g., 90 for 1990 -- and the next five the LEXIS cite number
(packed with zeros from the left to a full five characters). This
allows the extension to be reversed for a set of labels telling me
where the decision version sits in my classification process.
Another utility takes the report of the same eclipse searches that
comes in DOC# format and converts it to a file I can import into
Notebook II.

D. The importance of keeping the treatise in a database.

     I found early on that keeping the treatise as a flat file was
near impossible because of the need to manage all the links or
references. Uncertainty about the precise format, software
environment, or indeed medium (CD-ROM or online) also pushed toward
writing and maintaining the treatise text within a database (Notebook
II) that is capable of generating a report (documents to transmit
to the ultimate platform(s)) in a variety of report forms.

May 27, 1992

Mr. Gary G. Pollard
Senior Director, Editorial Services
Mead Data Central, Inc.
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Mr. Pollard:

I have read your letter of May 21 with great care and believe we are
very close to agreement. There are, however, two matters we
discussed by telephone following Dave Berger's letter of April 28
that are not satisfactorily reflected in the recent letter.

The first has to do with the language of numbered paragraph 13 of
your May 21 letter which (like the language of the April 28 letter
to which I objected) limits my use of MDC furnished digital material
to CD ROM (directly or indirectly). A paragraph reading as follows
would meet the concern about being limited to "CD ROM" distribution
I expressed to you:

13. Martin understands and agrees that the information provided by
     MDC may only be used by Martin to prepare computer-based
     information products on social security law.

As I explained to you, particularly during the period right after
the LEXIS cutoff but even thereafter, distribution of the treatise
and at least some accompanying primary material (statute,
regulations, and "key cases and rulings") by dial-up or floppy disk
are critical options. Once CD ROM publication occurs parallel
distribution in these other electronic forms may or may not make
sense, but updates in between fresh CD ROM presses will almost
certainly take one of these forms. These patterns are not ones I
have imagined but ones I observe being followed by small electronic
publishers delivering similar specialty material. As you put the
issue in our phone conversation: Is there any use I might make of

the cases, rulings, statutes, or regulations that would be troubling to MDC? I assume that so long as we are limiting the playing field to social security (as my proposed language limits it) the exact form of electronic distribution is of no concern to MDC. I have no intention of moving this project to MDC's on-line competitor and would be willing to stipulate to that, but this particular paragraph is irrelevant to such a prospect because West is one publisher for whom the digital material beyond the treatise would be unimportant. Is there some form of electronic distribution that would be troubling to MDC? If so, let's talk about it. If not, can we proceed with my paragraph 13? I am prepared to agree to the terms laid out in your May 21 letter with that single substitution.

The second matter we discussed that is not reflected in your letter is MDC's contribution of a sum of money to Cornell Law School in lieu of the $5,000 offered in Dave Berger's letter as compensation for my personal expenses. Your only response to my proposal was that there might be corporate concern about the precedential effect of such an institutional grant or contribution. Where do we stand on this issue? I trust there are ways to confine the precedent given the unprecedented relationship we are ending. If one holds to the original rationale (monies out of pocket), Cornell Law School's support of this terminated project in the form of research monies spent on student assistants who worked on the LEXIS database and the other items enumerated in the 1988 agreement more than justifies such compensation. But the thrust of the settlement agreement we have been working on is forward looking so the point I would stress in this connection is that a grant or contribution to Cornell Law School in support of our work on computer-based legal information would have a very positive effect on my ability to salvage useful results from all the work done under the MDC agreement. To put the matter in concrete terms -- $10,000 would cover my student assistant costs for the upcoming year. The sum of $5,000 mentioned in Dave Berger's letter would cover 2/3 of this summer's research costs. In addition to these direct consequences, financial support of my work would be reassuring to a dean who is about to see the only tangible fruits of the substantial research support he has given me for several years disappear this June.

Those are my two points. I trust they can be resolved.

                           Sincerely,

Peter W. Martin
Jane M.G. Foster Professor of Law

Mr. Robert Glass
Mead Data Central
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

June 5, 1991

Dear Bob:

I trust you have had a look at the treatise LEXIS published on June 1. I am proud of it, both its content and unique functionality, and hope you and your MDC colleagues are pleased.

I want you to know how much I appreciate and value the hard work and dedication that Sonny Reisz and others at MDC brought to this novel project.

Now that a coherent, fully functional, version of this work is up, my attention shifts to the challenge of: 1) getting this novel reference tool used and 2) exploring its value as a prototype for other legal reference collections. These are not new issues, but the present situation gives a fresh concreteness to issues we have discussed before but not resolved. Indeed, most of the topics that confront us were covered in our February meeting. (As my May 7 e-mail message pointed out, most of the MDC action items coming out of that meeting other than those connected with getting the treatise up have not yielded any action visible here.) I look forward to addressing these matters with you and your MDC colleagues at the earliest opportunity.

I. Getting the Treatise and Associated Materials Used

A. Board of Advisers

For a long time I have talked about having a short list of advisory users. These would be people who would receive free use of the collection in return for advise about content and functionality. They would also be selected to provide high leverage "word of mouth" publicity about Martin on Social Security Law within relevant markets. The model would involve assembling them for an introductory meeting and periodic subsequent meetings. David Berger expressed support for the idea when I talked with him in February, as Kathryn Downing had earlier.

B. Packaging

Especially in marketing this material to the relevant Federal agency (or agencies taking account of the divisions within the Social Security Administration and the fact that disability determinations

are made by state agencies under agreement with and supervision by SSA) and in other cases as well it would be a great advantage to have a lump sum price. The principal competitors for this treatise are print collections that have a lump sum price. The material is organized in a way that, given the limitations of the LEXIS software, will generate a stiff bill under normal pricing procedures. (Each move within the treatise from section to section, including a move back, is a LEXSEE move. That is expensive page-turning.) We have discussed "dynamic port pricing" for over a year. Who can make that decision? Let's get it resolved. Marketing really can't proceed without an answer to the question: "What will it cost?" and the answer being competitive.

C. Reaching Out to the Relevant Markets

West has a regular presence at the meetings of the National Organization of Social Security Claims Representatives (NOSSCR) and has also successfully marketed to the Office of Hearings and Appeals of the Social Security Administration. This new and superior reference work will not sell itself but will require similar effort. That will require marketing by people who know how to use the reference and how to demonstrate its unique strengths.

The market for this work has several distinct components: 1) private attorneys doing Social Security disability representation on a contingent fee basis (NOSSCR), 2) publicly and charitably funded legal services offices and their backup organizations (e.g., National Senior Citizens Law Center and Greater Upstate Law Project), 3) components of the Social Security Administration including the Administrative Law Judges and supporting staff in the Office of Hearings and Appeals, 4) Federal District Court Judges and magistrates, 5) state agencies; and 6) and corporate personnel offices, senior citizens organizations, and other entities or individuals with a strong interest in Social Security. In all cases, the work will be far more marketable with a lump sum price (see above).

The case to be made to the expert segments (1 through 5) is that this reference delivers more relevant legal material and is more easily used than any alternative. It has the important decisions, the rulings, the regulations, the statute, and secondary literature, together with topic by topic references to the POMS. It is constantly updated with the updates being added seamlessly. The case to be made to the less expert segment (6) is that this reference makes a very complicated field accessible to the interested lay person. Volume 1 is every bit as clear and "user friendly" as the CCH "Social Security Explained" which it sells in paperback with annual revisions. The principal difference is that this provides the interested lay person who wants it with direct access through the introductory Volume 1 to more detailed treatment on a point of inquiry and to the regulations and illustrative decisions.

II. Improving and Sustaining the Treatise

The currency of the information in the treatise and legal materials accessed through it is one of its major competitive advantages. We have a smooth path for adding topic codes to decisions, rulings, and for adding or revising treatise documents. With a little effort it can be smoother. (We talked in February about a modem to modem file transfer instead of the current use of Federal Express to move data on a disk.) But my principal concern is that MDC keep the people and resources in place to sustain the treatise and related files and not imagine, as some of my colleagues appear to, that now that the treatise is up the job is done.

For my part, I am committed not only to sustaining what is up but to improving it. The Tips on Use document in the TABLE file will be revised and substantially expanded in roughly one week's time. I shall from time to time be adding new documents within the current treatise framework that will add important features. For example, I shall before the summer is out be introducing information on success rates in various stages of appeal for different types of cases. I shall develop the update feature of the TABLE file so that it will offer important development notes on at least a monthly basis with references into the treatise and related collection.

Certain other significant improvements require MDC effort. The functionality of the treatise has been substantially hampered by the continuing failure on MDC's part to solve the ADF-FOCUS problem I pointed out last December and that we discussed again in February. The Treatise should be ADF, which would allow a user to select the treatise and browse through it. The Table of Contents to the treatise should be in the TABLE file, but neither of these conditions is possible so long as an ADF file prevents a LEXSTAT followed by a FOCUS from functioning in any display mode other than FULL. Solving that problem, which infects all ADF files not just those in PUBHW, would do a lot for the treatise.

The treatise is designed to make good use of the Windows Session Manager. Before Pat Guiant left MDC I furnished him with a list of enhancements to the Windows Session Manager that would add to its power with material like mine. For example, there is no reason why the user should not be able to point and click on "p*2." The software currently treats the "*" as a word division and so sees "p*2" as two words. Given the importance of page moves within LEXIS that is a serious limitation. The Windows Session Manager needs to learn about FOCUS and EXIT FOCUS; it apparently was designed before FOCUS was added to LEXIS.

III. Exploring Whether Martin on Social Security Is a Useful Prototype for Other Law Collections

    We talked about this in February. The issue strikes me as having, at minimum, two parts. The first is whether in other fields, ranging from tax to intellectual property, such a resource would add to the LEXIS competitive position. That might be approached by showing this prototype to lawyers in other fields of importance to MDC. The second issue has to do with the feasibility of replicating this reference. On that front, I stand ready to help the inquiry, but I have seen no evidence of follow through since we met in February.

    IV. CD-ROM

    I plan on doing some modeling of CD-ROM versions of the treatise this summer, in all likelihood using more than one software platform. If MDC/Michie remains interested in this subject I will be happy to demonstrate those models at the end of the summer.

                        Sincerely,

                        Peter W. Martin
                        Edward Cornell Professor of Law

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Contents Options
FOLIO/GUIDE VERSION
==============================================================
I. Treatise
     Volume 1                              .34 M
     Volume 2                             1.06 M
     Tables of Act & Regs                  .06 M
                                          ------
                                          1.46 M


* These counts include the LEXIS segment markers and also the full
LEXIS references for all moves.  Consequently, they overstate the
size of the treatise reformatted for FOLIO or GUIDE.

II. Act                                   2.08 M

** This count does not include the SSI sections or the EAJA.  It
does include all the Lawyers Coop editorial matter which should
probably be jettisoned for a disk version.  The code text alone
probably totals 1.00 M.

III. Regulations                          1.22 M

*** This covers only 20 CFR 404.  It does not include the SSI regs
or other general SSA administration regs.

IV. Decisions
     Supreme Court decisions          1.65 M
     Key Court of Appeals decisions   24.00 M

**** The Supreme Court figure is a hard count.  The Court of Appeals
decision a crude estimate; the category ("key") can be expanded or
contracted.

V. Rulings
     All rulings currently in PMSSRL    8.00 M

***** This is an estimate.


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Conclusions: The whole collection could be mounted on a large
hard-disk, but would be distributed most cost-effectively on CD-ROM.
 A collection made up of treatise, act, regulations, and recent
Supreme Court decisions could be distributed on a few high-density
diskettes.
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June 26, 1991

Mr. James P. Roemer
The Michie Company
1 Town Hall Square
P.O. Box 7587
Charlottesville, VA 22906-7587

Dear Jim:

Andy Wyszkowski called and briefed me on FOLIO -- where it is and where it is headed. And yesterday, I received a copy of the most recent version of the New Mexico statutes and cases.

My plan is to build small prototypes of my treatise and materials this summer using both Folio and Guide. Could we get together in August or September to review the CD-ROM options for my treatise? Having built the online version, I am eager to return to CD-ROM, having now much clearer ideas about how a CD-ROM version of portions of my material would work in complementary fashion with the online collection. By mid-August my prototypes should be well enough developed to demonstrate and discuss.

You and your colleagues can get a sense of what I intend to do on CD-ROM by looking at the online treatise. (Use the Windows Session Manager, select the PUBHW library and at that point either choose the TABLE file or "LEXSEE 1 SOCSEC 1" or "LEXSEE 1 SOCSEC 2." I enclose a copy of the user's guide that appears in the TABLE file as document 4.) CD-ROM (or any local storage) will allow more flexible display, will allow substitution of buttons for the clumsy LEXIS scripts that appear in the online version, and will furnish much better navigation orientation.

Sincerely,

Peter W. Martin

July 2, 1991

Mr. Gary Pollard
Mead Data Central, Inc.
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Mr. Pollard:

I was pleased to learn of your appointment. I look forward to working with you and your MDC colleagues in assuring that the LEXIS publication of Martin on Social Security is a success. Both sides can, I think, take pride in the quality of that work. In both content and functionality it is unique. The present challenge is to secure the competitive advantage that quality makes possible.

I look forward to reviewing with you where we stand on this project and the unfinished business arising out of the original CD-ROM contract. I trust that during my visit to Dayton next week we can pin down some of the issues that have proven so elusive over that past year. (For a quick summary of my perspective on the relationship and the outstanding issues see my memorandum to Bob Glass, Sue Alexander, and Sonny Reisz dated February 6 and for a sense of my frustration at how little has happened on these points despite statements of good intention at the February 27 meetings in Dayton see my memorandum to the same group dated May 7. Both are enclosed.)

My assumption has been that part of MDC's difficulty in resolving important questions since November has been due to the vacancy in the position you now hold. My hope is, therefore, strong that we can now resolve the outstanding questions surrounding the Martin-MDC relationship and the plans for my on-line treatise and related collection.

Sincerely,

Peter W. Martin
Edward Cornell Professor of Law

October 1, 1991

Mr. Gary Pollard
Mr. Steve Emmert
Mead Data Central, Inc.
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Friends:

The beginning of a new month reminds me of the time that has passed since I met with you and your colleagues in Dayton in mid-July.

In the intervening time I have put volume 2 of the treatise through a substantial revision which among other things incorporates the new capacity to Lexstat to C.F.R. sections; through mutual effort the updating path seems to have been smoothed. Since that meeting, I have also prepared and distributed a pamphlet introducing <u>Martin on Social Security</u>, I have assisted in preparation of copy for a one-page flyer to be distributed at some future date by MDC, and have made myself available for such other marketing efforts as MDC might organize -- including two presentations at the AALL meeting. This month I will travel to Chicago and conduct a workshop at a conference of the National Organization of Social Security Claims Representatives, a presentation I arranged and will pay for.

There are a number of MDC actions that I expected by now that have either not occurred or not been communicated to me causing me to be concerned again by the gap between stated intention and performance. From Steve I was to receive two items. The first was a license back of CD-ROM rights coupled with a termination provision. The second was a letter amendment to our contract adjusting the royalty share to take account of the fact that I am undertaking far more of the cost and effort of marketing than is customary for an author (in a situation that calls for more aggressive and imaginative marketing than the typical print treatise) and MDC is undertaking far less than a print publisher would. From others at MDC I was led to expect a study of alternative pricing options that would produce some form of subscription or lump sum pricing for segments of the market where that might be important. I was also encouraged to think that efforts would be launched, which I might assist, to bring this new resource to the attention of the federal judiciary and Social Security Administration. Where are we on these matters?

Since you have given me more time, I have given more thought to the contractual elements we discussed in July. Given the amount of initiative, expense, and time I see myself having to devote to spreading the good word about the online treatise, including the selected and coded cases and rulings, I believe a 50% royalty share is appropriate. That gives me incentive to undertake travel and do mailings -- investing my own funds and time in marketing efforts that need to be done before this novel work can gain acceptance vis-a-vis aggressively marketed competing products (most especially West's Social Security Reporting Service). The 50% figure assumes that MDC does its own share of marketing and that we coordinate efforts.

On the subject of CD-ROM, I believe we have reached the following understanding. MDC has no objection to my finding another publisher for a complementary CD-ROM or floppy disk products. Since versions of the treatise and companion data distributed in this fashion will depend on the online files for complete functionality and updates, such efforts on my part will increase my need for reasonable notice of any intention on MDC's part to cease distribution of my material online. As my memorandum of February 6, 1991, made clear I view our "minimum commitment" to run for five years so that any decision on MDC's part to end online distribution before that time has run would require mutual agreement. An abrupt termination before or after 5 years have run, would have additional adverse consequences for me once I have other related products in the market. It is important for both sides to acknowledge that. With two year's notice I believe that reasonable though less desirable online arrangements could be put in place. Shorter notice would create major difficulty.

I continue to spend my own money on marketing efforts -- something none of my author colleagues understand. I have developed CD-ROM prototypes and macros that I want to show Michie, Thomson, and others but I have held off doing so until I had the license back of which you spoke in July. Can I count on receiving the promised letter amendment and license back by the end of October? I would be content with a letter signed by the two of you referring to this letter of mine and agreeing to its restatement of the royalty terms and our CD-ROM understanding.

Sincerely,

Peter W. Martin
Edward Cornell Professor of Law

November 13, 1991

Steven M. Emmert, Esq.
Legal Department
Mead Data Central
9443 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Steve:

    Here is the redraft of Paragraph 4.1 I promised you. It
separates out the items which are subject to an exclusive license
and a nonexclusive license. As to the treatise it drops print and
CD-ROM from the list of licensed activities because of our mutual
understanding that MDC (as dintinguished from Michie) does not have
plans for such forms of distribution. The other change is the removal
of the troubling exclusive license to "any other item ... supplied
... in which Martin claims or may claim a property interest." Surely
MDC's interests are adequately protected by the nonexclusive license
to the Treatise et al including the right to "use and prepare
derivatives" and the exclusive license to the Process Description.
 Finally, please note I provided a limit to the Process Description
so that we have no quarrel about MDC's owning what I may tell you
about how to do this kind of work in the future.

                    Sincerely,

                    Peter W. Martin
                    Edward Cornell Professor of Law

December 23, 1991

Steven M. Emmert, Esq.
Legal Department
9443 Springboro Pike
Post Office Box 933
Dayton, Ohio

Dear Steve:

I have reviewed the latest redraft of the proposed Amendment
to the Martin-MDC agreement. I am puzzled by the fresh shift on
the Process Description but leave that up to you folks.

The principal purpose of this amendment as we first framed it
during the meeting in Dayton last July 17 is to free MDC of the
commitment to publish this work in CD-ROM and to enable me to enter
into an arrangement with some other publisher for publication of
the CD-ROM product contemplated by the original agreement. We agreed
that the online version of the work would be adequately covered by
the existing agreement with an adjustment of the royalty share.

At the July 17 meeting you spoke of a license back of full CD-ROM
rights and promised to send a draft, but what you finally sent as
a draft in November was a revised paragraph 4.1. I am prepared to
sign the version we have shaped since then but think it important
for both sides that we review the other unrevised portions of the
agreement in the light of a prospective CD-ROM publication by Michie
or Thomson or Cornell University. I assume that you all have
concluded that such publication requires no revision of the agreement
other than in paragraph 4.1 but think it wise to check out each other's
interpretation of the agreement. I judge that both parties want
to get on with making the relationship work and that avoiding future
misunderstandings is important to that aim.

I propose a meeting in Dayton sometime before the end of January
-- a meeting to include those present at the July meeting or their
successors -- at which we would review the understandings each party
has about how the agreement as revised will relate to my publication
of a CD-ROM along the lines outlined in the original agreement with
another publisher and our understandings about how we will work
together to market the online version. Since MDC's personnel
continue to change, I propose that we generate and sign a set of
minutes at that meeting reflecting our mutual understanding of the
intent of the amendment and then proceed to sign it. That would
mean that the meeting should include someone authorized to sign the
amendment on MDC's behalf.

You have expressed upset at my characterization of some of MDC's past dealings as having not been in good faith. I assure you I have no surprises up my sleeve and trust that your substitution of a revised 4.1 for a full license back conceals none, but at this point I have grown nervous about misunderstandings. A meeting of the sort I propose strikes me as a healthy way to protect both parties against surprises. I am as eager to see the online version of the Martin treatise and materials succeed as I am to realize the CD-ROM version our agreement contemplated and so look forward to putting the contract issues behind us.

                        Sincerely,

                        Peter W. Martin
                        Edward Cornell Professor of Law

cc: B. Graupmann
    G. Pollard
    B. Reisz
    R. Jacobs

November 19, 1991

OWL International, Inc.
2800 156th Avenue SE
Bellevue, WA 98007 USA

Dear Friends:

     GuidelineS for August 1991 reports that GUIDE Writer 2.0 will
be available in September and describes the product. If you have
begun shipping Writer, please send me a full description and price
information.

     I would also like information on available full-text search and
retrieval add-ons that can be combined with Guide.

     Your files should show correspondence dating back to 1988 about
a Social Security treatise and database I have prepared. With close
involvement of OWL personnel Mead Data Central and I created a Guide
CD-ROM prototype of that work in 1989. Subsequently, MDC dropped
its CD-ROM plans. My project now exists online in LEXIS, but I am
preparing a version for CD-ROM. Because of the machine environment
of the initial target audience, the first version will probably use
FOLIO as the platform, but I have the core work in a generic mark-up
form that I hope will allow a parallel or subsequent Guide version.

                    Sincerely,

                    Peter W. Martin
                    Edward Cornell Professor of Law

Building Computer-Based Legal Reference Works -- Issues of Structure,
Tools of Construction, Future Challenges

I. Introduction

For two and a half years, I have been working on a project that
I have most often described to law people as an electronic treatise
on Social Security Law -- a phrase that at the same time offered
a comforting explanatory link to the familiar but also resonated
with puzzling and, to many, quite mysterious science fiction sound.
I found that the idea of a computer-based treatise more often ended
discussion than stimulated it -- and during the early stages that
may have been exactly what I wanted for I wasn't at all sure of where
this project might come out, although I was almost foolishly confident
about the direction of the journey. "Electronic" of course said
something about the storage and distribution medium, but nothing
about feel and function -- how such a new form of legal reference
would work. About many of those questions I was as uncertain as
my quizzical colleagues.

A month or so ago, the first piece of that project -- in many
ways its core -- went "up" on LEXIS -- making it possible for us
to explore what an electronic treatise might do and be making use
of a concrete illustration. That is my aim -- not a demonstration
of this piece of work so much as use of it in an attempt to share
with you both my excitement about the potential for this type of
scholarly production and my uncertainty about the directions that
one can move from this, concededly limited, prototype.

Not only did the contemplated product "electronic treatise"
sound mysterious, but the process of creation seemed at least equally
remote and inaccessible to many of my colleagues. Consequently,
although this may be less necessary here, I though it important to
address some of the how issues along the what in this discussion.
For my conclusion is that works of this kind, and more traditional
forms of scholarship too, can be built by many law academics (not
just hackers) -- using reasonably priced "off the shelf" software.
I am not loathe but eager to share the secrets of my inventor's
laboratory with anyone who is interested in this form of scholarship.

II. The Most Critical Element of an Electronic Treatise
Lies in the Footnotes

What is different about an electronic treatise? The greatest
single difference, I now believe, lies in the footnotes. Indeed,
in a sense, that is all I am in a position to show you this afternoon,
the footnotes to my electronic treatise. Saying that I am nervous.
While I know how understanding I am when a colleague hands me a
manuscript, finished "except for the footnotes" and I doubt I would
respond the same way if a colleague ever handed me an article's

footnotes, explaining that the work was complete except for the text. But I trust you will bear with me long enough to hear my explanation for why this is a radically different case and why electronic works may truly have their core in their footnotes.

Footnotes are a salient feature of law writing - maligned, misunderstood, and misused. Much of the abuse flows from confusion about the many roles of the footnote and a failure to distinguish among different types of law writing -- the judicial opinion, the brief, the opinion letter, the journal article aimed at other scholars. The only type of footnotes these remarks concern appears a treatise or law journal article which sets out to map a law domain for practitioners and judges and others. Whether in fact through a footnote or through a reference embedded in the text, the author of such works routinely links the description, analysis, or mapping of the text to relevant authoritative law documents. In most cases, these are documents the reader whose problem lies around the point will want to consult and which themselves may provide further linkages. In other words, the kind of footnote, I refer to follows the author's representation of the law on a point and leads the reader to a statute, regulation, appellate decision or perhaps a secondary source.

{ILLUSTRATION NO. 1}
Some years ago I was a party to a print treatise in the field of Social Security Law. Its pages contain a peppering of this type of reference -- citations designed to allow a reader to move from the text map to illustrative or supporting law documents. Let me make a few observations about these references -- at the risk of boring you with their restatement of the obvious.

* Footnotes real the fundamental dependence of most treatises on a library of referenced material. The typical treatise carries an implicit assumption that the reader has access to most of the material cited in the text -- although not necessary precisely at the time of reading. These books do not stand alone.

* Most readers of most treatises don't read them from beginning to end. Instead the typical treatise user enters the book with a problem -- seeking some mixture of overview (assisting issue identification), legal analysis of the problem area, and pathways into the law -- that is pathways to what counts as primary authority in our legal system -- statutes, regulations, court opinions and the rest.

* A reader in pursuit of a solution to a particular problem, can ignore many footnotes, but in the end, if fortunate, find some few of critical importance.

* Treatise readers expect a high level of selectivity or author judgment. There may be points on which all relevant documents can be fit into a short list and there the reader may expect a footnote to be comprehensive. But more commonly there will be many more decisions on the issue than the page will bear or the reader wishes

to consult. Readers expect the author to screen for validity and select using other criteria as well such precedential weight, clarity, degree of recognition of the soundness of the position. (Authors who cite cases overruled at the time of publication are consigned to one of the hotter regions of hell.)

* Readers also expect updates -- new editions, pocket parts. The author of a journal piece can dump it and run, but the author of a treatise that enjoys any acceptance enters into an ongoing relationship with the work -- including or perhaps even especially its footnotes.

The view of footnote (or law reference) I am pursuing here is broad enough to encompass references organized around the structure of a statute (annotated codes) or around the nodes of individual decisions that are particularly authoritative, illustrative, or timely (the annotated law report). All of these types of reference work provide trails to law documents that the reader can follow, but need not -- a set of choices for the reader, often accompanied by some assists -- sorted listings by date and court, a brief summary of what will be found at the end of the trail. Citation conventions call for the pointer to be as precise as the packaging of the referenced material reasonably allows -- when the reference is to a particular passage from a 40 page opinion, a reference to the page of the passage (though not the paragraph number) of the passage is expected, statutory language found at the subsection level is expected to be identified at that level.

{ILLUSTRATIONS NOS. 2,3,4}
I trust we are all aware of a new feature that has begun appearing in the treatises of one publisher. {West's Westlaw queries.} I have said enough about footnotes to explain my view that this early form of media straddle does not qualify as an electronic footnote. Its purposes are similar -- being principally designed to facilitate reader access of law documents beyond those listed by the author, particularly those dated after publication of the book. But it fails my footnote test because it is not prepared by the author; it doesn't reflect author judgment about the importance of individual documents. In an enticing way, however, it suggests the next step -- bringing connecting footnotes to the electronic library which now contains nearly all the relevant law documents. They even suggest that such electronic footnotes can offer a dynamic element, largely unavailable in print.

By electronic library I mean LEXIS, Westlaw, or smaller collections of law materials distributed electronically. The obvious case for the electronic footnote is that a full set of relevant law documents in many fields is now accessible by computer, more accessible in some important ways than their print counterparts. This extraordinary fact, along with certain other recent technological developments, create the technology predicate for the electronic treatise.

III. The Technology Predicate for the Electronic Treatise

The conviction that has propelled my work over the past two and a half years is that the era of electronic footnotes and consequently the electronic treatise has arrived. That conviction rests on several interconnecting elements:

* The first element has to do with the completeness and wide distribution of digitized law information. The full set of primary materials in most fields of law now exists in digital form, distributed online by Mead Data Central and West.

* The second element has to do with the maturity, the sophistication of the software environment through which users access that information. Both Westlaw and LEXIS offer a fairly rich hypertext environment, user options, navigation moves, command concatenation, flexible display modes, download and print capabilities. One of the best graphic depictions of hypertext I have seen appeared last year in a LEXIS publication which without ever using the term "hypertext" displayed the multitude of research paths one might follow beginning with an ALR annotation.

A Brief Review of the LEXIS/WESTLAW Footnote Moves

* Single document (or unit of document) retrieval -- LEXSEE, LEXSTAT, FIND or a citation field search

* Techniques for multiple document retrieval

* Access to the most relevant document components through pagination or focus or locate or search terms

* Browsing down a line of documents, either a preset line (browsing a statute or regulation) or the results of a search and retrieve (next document with the database creator and user both in control of the order)

Legal materials in those libraries can be referenced with even greater precision than their print counterparts.

* A third element of the technology predicate has to do with the software and data storage capability at the user's end -- the rapidly spreading operating environments that allow operation through a point and click, graphic interface and the fluid connection of legal information retrieval software to writing and local data storage applications and the availability of cheap and reliable local data storage. The results are many more options
to authors of electronic works, a dramatic reduction of the expertise required of users, and a quantum increase in the possibilities for integrating legal research with other computer-based user work and work product.

* A final element concerns the hardware delivering information to the user/reader -- monitors, computers, modems, printers. Dramatic improvements in these components of a computer information

delivery system make print on demand and even reading from the screen competitive with print-based systems.

Because these developments have resulted in a rapid system for retrieval by conventional citation (I want a particular decision found in print at 250 F.2d 234 or section 414 of title 42 of the U.S. Code), review on line and rapid print on demand or download, they have in a sense converted most print footnotes of the type we are discussing to electronic footnotes. They can be followed precisely as written into the electronic library. The media cross over creates an awkward interface -- awkward but not an intimidating one. And when the books are distant, the cross over can seem downright smooth. When I am working at home with a law text and encounter references that I want to follow, I make a list and when finished with the text step over to my computer and LEXIS.

IV. The Most Obvious Advantages of Electronic Footnotes

The most obvious next step is to deliver electronic footnotes along the same distribution path as the documents they reference. Put text and footnotes in LEXIS, that the reader can follow in, print or download from, LEXIS. That is what I have attempted. There are other ways to deliver electronic footnotes, as well, and I shall come back to some of the alternatives after this brief demonstration.

The most immediate gains of electronic footnotes relate to some of the practical limits of print references.

* In many work settings, following a print reference is difficult or impossible (at the moment). Consequently, readers follow fewer references than they would if the move were easier, they follow references later than they might otherwise (saving a list of references to pursue), and authors respond with far more quotation, excerpting, and summarizing than they would if readers had swift, easy access to the cited text.

* Space, visual clutter, information management questions limit references in print. The tradeoff is resolved differently in the typical treatise and the typical annotated statute, but both illustrate the problem. Consider the many good reasons, other than author sloth, why few if any good treatises furnish the leading decision from each state or U.S. circuit on each point. Yet that is a feature that most readers in most problem situations would find useful.

* Updates are a major problem, no matter how serious author and publisher are about keeping the work current.

I suggest you keep these areas of potential advantage in mind as we find and follow some representative footnotes from Martin on Social Security Law.

V. Electronic Footnotes -- A Sampler

{LEXIS Demonstration}
A few words about the Windows Session Manager and its importance to a work of this kind. The key functions it brings to the electronic treatise are point and click or block and transmit execution of code delivered embedded in data -- graphic user interface access to hypertext moves -- and the capacity to transfer commands and retrieved data from one application to another with ease.

{PUBHW;TABLE}
Treatise footnotes are embedded in a matrix or map created by the author. In many fields, an important set of coordinates is furnished by statute or regulation, but in few fields can a good treatise simply adopt the organizing scheme of the underlying legislation. This is especially true of a statute like the Social Security Act which has experienced so much change by tinkering. The original orderliness of the statute has long ago been covered by a mosaic of amendments -- many simply fastened to the nearest section at hand.

{Explain structure in LEXIS database terminology}
Following the author's map, the reader finds an area or topic that bears on the problem or issue that prompted the research. The software of both LEXIS and WESTLAW enables the straight forward, static footnote move -- the move from a listed reference to the document and back. The powerful difference between this footnote and one in print is that it can be followed immediately when and where that fits the rhythm of the reader's pursuit of understanding.

{LEXSTAT to a statute reference -- with subsection focus if working by Jan. 4 -- Proof of Age}

Both LEXIS and WESTLAW also furnish efficient ways to pull in a large number of items. Consider the situation where in print the reference would be et seq or this through that or even a long list of items. Wild card characters, short hand forms of reference, and block and transmit software give the reader control over that kind of reference that print does not. Consider this move from topic to the relevant paragraphs of the regulation. One way to implement the move when the units are in a logical sense adjacent would be to trace a path to the first and then have the reader shift into a browse mode and step sequentially through. But an alternative that I find more powerful is what we might call the group citation retrieval. That allows the reader to scan the multiple documents in more detail than the standard footnote, but less that full text. It enables the reader to investigate the material in non-linear order. It enables the reader to search within the set for key words.

{Follow a reference to a set of regulation paragraphs -- Attorneys Fees - Social Security Act}
{Display in CITE mode}
{FOCUS (conting! and court) and display in KWIK}

The cycle from author to footnote revision can be very short with an online treatise. This one already contains references to

the important amendments contained in the Omnibus Budget
Reconciliation Act of 1990.

        {Administrative res judicata}
        {Competing Spouses -- follow reference to Table 209; note
        but do not follow reference to amendments themselves}

        But it is the dynamic footnote that has me most excited about
this medium -- a new type of footnote that the author prepares from
the data side. The fundamental concept is not new, but the computer
gives it new power and flexibility and brings the formerly impossible
within an author's reach. The idea is of a footnote that is not
a fixed list of references. Even with frequent revision the print
footnote is a static presentation from author to reader. Here we
have a footnote search that the reader fires -- or fires and modifies,
fires and focuses. A search that in effect says to the author's
reference work: What has that footnote got today? Conceivable a
different document set than last week. A search that works because
the author has coded the data to respond to such a footnote search.
 That is how this treatise references appellate decisions. Each
week I review the latest decisions that might fit within the scope
of my treatise and, as appropriate, code them into my treatise
footnotes so that the following week these new authorities are there
for the reader and as well as for me the author.

        {Small number of decisions -- Appl!}
        {Large number of decisions -- Treating physician
        MODIFY -- and psychologist w/30 treating
        MODIFY -- and chirop!
        MODIFY -- court(supreme or 2nd)
        FOCUS -- judges(curtin)}

        * Note the possibilities for dealing with the too many footnotes
problem -- first of all the retrieved authorities are stacked in
useful order by court and date, but they can also be selected and
sorted by the user. There is a significantly different author/reader
partnership here -- with the author doing at once more and less,
leaving the user/reader far greater control over the direction and
precision of the reference.

        * Granularity of the referenced material. Numerous options
present themselves here. Note that I have not associated the codes
with particular portions of documents. With greater author
investment that would be possible. Instead I am relying on
associated words and KWIK display to take the reader to the relevant
portion of a document.

        * I have already addressed the datedness issue.

        * Each document found can itself be a spring board for further
exploration -- the online citators (Shepards and Autocite in LEXIS)
and the decision's own references.

        In sum the principal gains of the dynamic footnote have to do

with author/reader treatment of the quantity problem, cross issue selection and other true database manipulations, and treatment of the datedness problem.

VI. Linking Other Matrices to the Topic Structure
-- Statute and Regulations

{Statute and Regulation Tables}
{Treatise}

VII. Issues

A. What Will a Treatise with Electronic Footnotes Look and Act Like

Why quote the statute or regulation when it can be delivered in full text?

Why do selections and sorts that software allows the user to perform, tailored to the user's needs?

However, since the author need not deliver the results of a particular dip into the authorities, why not suggest a greater variety of searches to the user?

The most important elements of the treatise are its links, its selectivity, and the accuracy and succinctness of its description.

B. Format of Both Treatise and Its Footnotes

We have a set of widely observed print conventions that assist the writer and reader of print works -- conventions that allow the writer to communicate information with both reasonable completeness and accuracy. These conventions comprise a form of code, as those from outside the circle will rush to remind a lawyer, but the code is a reasonably intelligible one. A fundamental issue as one moves to a new medium is how much to adhere functionally unnecessary elements of those old conventions.
{Note the format of statute and regulation references}

C. Means of Orienting the Reader Throughout the Research Process -- Where can I go? Where am I and how did I get here? What are my choices at this point, including how can I go back to some place I was recently?

D. Division of Material Between Online Collection and Distributed Data Stored at the Workstation or a Local Network

VIII. Alternative Delivery Possibilities (Greater Independence of Online System Software and Perhaps More Cost Effective)

{GUIDE DEMO -- Statute}

Guide -- The gains of placing frequently used and fairly stable texts at the workstation:

* Better software for manipulating and viewing those texts.

* Greater user ownership including framework for user's own experience and work.

{CARDFILE DEMO}
Cardfile -- The gains of providing the navigation tools at the workstation:

* Better software for keeping track of steps one has taken and the options

IX. How does one build such a reference or use such a reference to build a print work with static footnotes

A. The importance of a working electronic collection of documents. In building this work for LEXIS, I worked for two years apart from LEXIS -- in the sense that I worked with downloaded full text versions of the decisions that are now coded into my footnotes. What did that allow that the online version could not? First, it permitted me to run searches on this distinct collection -- no garbage, my own collection of Social Security Cases and subsets of it, recent cases, Supreme Court decisions. More important it allowed me to add my own keywords or codes to those documents and use them as part of a full-text search -- building by increments the system that now resides online. How? The available tools have changed over time -- my current set include Magellan which allows me to index the decisions in full text, to select a document, read it, load it into my favorite ASCII editor and using a set of macros built with SuperKey add my topic codes to its text, return to Magellan and reindex.

B. The importance of a true database that works well with texts in keeping track of the pieces. I wish that Magellan also could perform standard database operations on the distinct fields of information within documents, but it does not. So I maintain a separate database, using Notebook II, that contains some of the same citation information, the file name of the full document, plus a variety of additional editorial material I have collected over time.

Those of you who have worked with some of these same elements know how much thought and experimentation can go into the smallest details. For example, if you are working with a collection of several hundred decisions, in full text, how do you set up the file and directory structure. How do you name the files within the limits of dos (assuming that each decision is a file and that the file names should be eye and head compatible --that they convert easily into more standard citations -- moving either direction). With thousands of decisions, I needed to establish a convention and implement it automatically. I now have a utility, programmed in basic that takes my weekly downloads, chops them into decisions, and builds a file

name from the LEXIS citation -- the first character identifies the court --e.g., A for court of appeals, D for district court -- the next two characters give the year -- e.g., 90 for 1990 -- and the next five the LEXIS cite number (packed with zeros from the left to a full five characters). The extension I reserve for a set of labels telling me where the decision version sits in my classification process.

X.   A New Wave of University-Based Legal Reference Works?

     If I am right that the era of electronic footnotes has arrived, who will respond to this creative opportunity.

     In the distant past, many of the important treatises were written by academics but in more recent years the activity has moved out of the academy -- not altogether but significantly. University-based law schools strike me as an ideal base for building treatises in this new form, but unless faculty members find such nontraditional endeavors both personally satisfying and at least reasonably rewarding in terms of peer recognition -- the creative center will arise elsewhere.

     Where -- inevitably within the legal information industry but not inevitably with those who currently sell access to the online library.

```
                               MEMORANDUM

TO: Colleagues

FROM: Peter Martin                              DATE: June 3, 1991
=====================================================================

     Saturday, Mead Data Central published volumes 1 and 2 of a new treatise on
Social Security Law.  Were this a print publication, I would inscribe a copy
acknowledging the generous support of dean and colleagues and place it in the faculty
lounge.  Since it is not, I must call your attention to its presence in your office
-- accessible via LEXIS -- and take this means of thanking you all for your tolerance
of the unorthodox, for your helpful questions and advice.

     The curious can find this integrated collection of treatise, statute,
regulation, rulings, and decisions in the Public Health and Welfare library of LEXIS
(PUBHW) (see attached).  Those interested in a guided tour can stop by my office.
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Please TRANSMIT the NAME (only one) of the library you want to search.
 - For more information about a library, TRANSMIT its page (PG) number.
 - To see a list of additional libraries, press the NEXT PAGE key.
 NAME   PG NAME   PG NAME   PG NAME   PG NAME   PG NAME   PG NAME   PG NAME   PG

 - - - - - - L E X I S - U S - - - - - - - - - - - - - - PUBLIC   FINANCIAL --NEXIS--
GENFED 1 CODES   1 LEGIS   1 STATES 1 ALR   6 RECORDS   COMPNY 15 NEXIS 13
                                                  ASSETS   6 MERGER 15 BACKGR 13
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BKRTCY 2 FEDTAX 3 PUBCON 4 HEALTH 3 LEXREF 6   WORLD 16 CONSUM 13
COPYRT 2 IMMIG   3 PUBHW   4 INSRLW 3 ABA   6   ASIAPC 16 ENRGY 14
ENERGY 2 INTLAW 3 REALTY 4 STENV   4 BNA   6 --MEDIS-- EUROPE 16 INSURE 13
ENVIRN 2 ITRADE 3 TRADE   4 STSEC   4 CCHSKY 6 MEDEX   12 MDEAFR 16 LEGNEW 14
ESTATE 2 LABOR   3 TRDMRK 4 STTAX   4   MEDLNE 12 NSAMER 16 MARKET 14
FEDSEN 2 LEXPAT 4 TRANS   5 UCC   5 -ASSISTS-   PEOPLE 14
          M&A   3   UTILTY 5 PRACT   12 POLITICAL   SPORTS 13
                                        GUIDE   12 CMPGN   14   TRAN   14
                                                   EXEC   14
   AC for AUTO-CITE   LXE (LEXSEE) to retrieve a case/document by cite
   SHEP for SHEPARD'S   LXT (LEXSTAT) to retrieve a statute by cite
- -

Please TRANSMIT the NAME of the file you want to search. To see a description
of a file, type its page number and press the TRANSMIT key.
                FILES - PAGE 1 of 2 (NEXT PAGE for additional files)
 NAME   PG DESCRIP   NAME   PG DESCRIP

 -------------- CASES ---------------   --- P.MARTIN ON SOCIAL SECURITY LAW --
 CASES   1 Combined COURTS & SSRULE   TABLE   6 Table of SocSec Topics
 COURTS   1 Fed Pub Benefits & SocSec   SOCSEC 6 Martin SocSec Treatise
 OMNI   1 State Pub Benefits & SocSec PMSSCA 7 Martin Selected Cases
 SSRULE   1 Social Security Rulings   PMSSRL 7 Martin Selected Rulings

 --- U.S. CODE/CFR/FEDERAL REGISTER --- --------------- BNA ----------------
 USCS   2 Titles 26,28,29,30,42,45
 PUBLAW   2 Public Laws   BENDAY 4 Benefits Today
 USCODE   2 Combined USCS & PUBLAW   PENSN   4 BNA Pension Report
 ALLCDE   3 Selected State Codes   BNAPEN 4 BNA Pens & Benefits Daily
 CFR   3 Titles 20, 26, 29, 42, 45   TMCPJ   4 Tax Mgmt Comp Plan Jnl
 FEDREG   3 Federal Register   TMCPP   4 Tax Mgmt Comp Plan Port
 ALLREG   3 Combined FEDREG & CFR
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PRICING INFORMATION
Although only connect time charges apply while using this TABLE file, when
going from the TABLE file to any other file by using the .cf (change file)
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charges apply.

 P. Martin, Social Security Law - Treatise and Selected LEXIS Materials
         Copyright (c) 1990, 1991 by Prof. Peter W. Martin
========================= FILE OVERVIEW ==============================
   This set of tables to the treatise, selected cases and rulings prepared
by the author covers the issues of entitlement, benefit calculation, and
procedure in the programs popularly known as Social Security.
   For   TRANSMIT
  Treatise Table of Contents
    Vol.1 - Overviews   => .cf;SOCSEC; lxe 1 SOCSEC 1
    Vol.2 - Topics   => .cf;SOCSEC; lxe 1 SOCSEC 2
  Tables of:
    Searchable Topics   =>   2   Tips on Use   =>   4
    Statutory Provisions => 198
    Regulations   => 199
    Recent Developments =>   3
  Explanation of Treatise and Tables => p*explain

I. Introduction

Law is a professional field and field of research that depends heavily on information. For whatever may appear lawyers never know the law in its most current completeness (having learned all its never changing details in their early twenties) -- they find or research the law using information skills, analysis, and an understanding of legal topography and vocabulary they acquire in law school. Experienced lawyers and legal scholars know a great deal of law; but even the best lawyers must do legal research.

When the Cornell Law Library was begun over a century ago, the defining notion was clearcut -- a law school library was a lawyer's library, ideally a lawyer's library better than most lawyers might achieve in a lifetime of practice -- and the route to that superiority lay through acquiring the professional libraries of several lawyers and judges. That is precisely how the Cornell Law Library began.

Twenty years ago when I came to the Cornell Law School, the defining notion had spread in two important dimensions. Being a national law school that prepared students for practice from Maine to California and encouraged its faculty to research and write on areas of the law from admiralty to zoning -- the Law School's collection of lawyer materials (like that of all national law schools had grown to exceed the wildest imagination or needs of even a large law firm). Its collection did not pretend to offer the most detailed how-to materials in real estate law in Missouri, but a student or scholar wanting to understand how the courts and legislature in Missouri (and all other 49 states) dealt with questions of a buyer's remedies for defective housing could conduct that research quite thoroughly here. Indeed, a student or teacher interested in comparing U.S. treatment of the issue with that in countries around the globe could pursue the research here. (Definitive works on the law of the 50 states and comparative works on foreign law were written here from that collection.)

The second dimension of development concerned the other side of a strong law school -- for law schools are not just lawyer schools, they are our

only centers for study of law and legal institutions -- study that in recent decades has increasing drawn on the disciplines of economics, history, political theory, and empirically based social science. These scholarly activities require a law library to be less parochial in its collection and its relationship to the university.

Today, those outward pressures are stronger still. The realization that law practice for most of our current students will involve a global economy places incredible/impossible demands on the library. But the most important fact about how law students and my faculty colleagues use the library today and how they conceive of the library has to do with the computer.

Because a concrete illustration may help, I thought I might try to share with you a law book I completed this past summer. At the moment, it is a novelty (being a book that does not exist in print) -- but it is representative of much more current and future law scholarship in two important respects. Novel form or not this book could only have been written or assembled with the print and electronic resources that uniquely come together in a first-rate law school library. And novel form aside, it represents the growing centrality of electronic information resources in legal scholarship -- even that scholarship which for the moment is distributed in more traditional forms.

In 1979, having written several articles on important Social Security law topics I had sketched out a treatise on the field -- a book intended for lawyers, administrators, and judges who had to contend with the complex and changing details of Social Security law. A funny thing happened to me on my way to completing that book -- I was appointed dean. During the eight years that followed -- an information revolution exploded upon law -- as it was exploding upon other information intensive fields.

Since leaving the dean's office, I have been working on a project that I have most often described to law people as an electronic treatise on Social Security Law, a phrase that at the same time offered a comforting explanatory link to the familiar but also resonated with a puzzling and, to many, quite mysterious science fiction sound. This June my treatise was published on LEXIS, making it possible for me to show it to you.

II. Why An Electronic Treatise

The conviction that has propelled my work on this project is that the era of the [electronic] law book has arrived. This belief rests on several interconnecting elements that I shall call the technology predicate:

* The first element has to do with the completeness and wide distribution of digitized law information. A full set of primary materials in most fields of law now exists in digital form, distributed online by Mead Data Central and West.

* A second element has to do with the maturity, the sophistication of the software environment through which users access that information. Both WESTLAW and LEXIS offer a fairly rich hypertext environment, user options, navigation moves, command concatenation, flexible display modes, download and print capabilities.

* A third element of the technology predicate has to do with the software and data storage capability at the user's end -- the rapidly spreading operating environments that allow operation through a point and click, graphic interface and the fluid connection of legal information retrieval software to writing and local data storage applications. Add the availability of cheap and reliable local data storage and the result is an explosion of options for authors of electronic works, a dramatic reduction of the expertise required of users, and a quantum increase in the possibilities for integrating legal research with other computer-based user work and work product.

* A final element concerns the hardware delivering information to the user/reader -- monitors, computers, modems, printers. Dramatic improvements in these components of a computer information delivery system make print on demand and even reading from the screen competitive with print-based systems.

Because these developments have resulted in a rapid system for retrieval by conventional citation, with review online and rapid print on demand or download, they have in a sense converted most print materials to mixed media reference works. Print references can be followed precisely as written into the electronic library. At least one print publisher, West, has gone further and incorporated related database searches as

references in print works. The media cross over
creates an awkward interface but hardly an
impossible or even severely intimidating one. And
when the print versions of the referenced documents
are distant, the cross over can seem downright
smooth.

III. Advantages An Electronic Treatise Might Offer

The advantages an electronic treatise can offer over print fall into several distinct categories.

A first advantage is information density or compactness which can translate into both reduced cost and increased convenience. This is a powerful advantage but not enough by itself in many areas to pry people away from print.

An important second area of advantage has to do with how users find and understand and relate information. With suitable software and hardware the screen offers a better window on the relevant legal texts than a printed reference collection. To begin, a reasonable professional workstation today can (although current online systems do not) deliver as many characters, symbols, different fonts and other cues to organization and meaning as a printed page. But that is simply attaining parity. With suitable software the reader need not be burdened with details or references he does not wish to pursue, a clear gain over print. With suitable software the reader can follow references within and across document types immediately and return with the same speed. With suitable software the reader is not limited to references seen and coded by the author but can build on or add to them.

A third area of advantage is user appropriation and annotation. In a way impossible with print, useful material in an electronic reference can be appropriated easily to support the user's work. With suitable software the reader can retain his own views and experience within the same information structure (electronic annotation, if you will, and more).

Integration with other information sources is a fourth area of advantage. Updates can be integrated seamlessly; they need not be segregated in supplements or pocketparts. Bridges between different online information products and between local data (.e.g, CD ROM) and online legal information can be far smoother than their print counterparts.

DEMONSTRATION

Enough talk let me show you what I mean.

Sign on

PUBHW/TABLE

1 SOCSEC 2

SPOUSE BENEFITS; Deemed Spouse

2 SOCSEC H 200

lxt to statute

lxt to regulation

lxe to ruling

1 SOCSEC 10 ; focus alcohol!

2 SOCSEC P 750

CASES; search; m; and court(7th)

IV. Which Area of Advantage Is Most Important

What is most different about an electronic treatise? The most significant difference, I now believe, lies in the footnotes or the connections between author text and underlying legal source documents.

Footnotes are a salient feature of law writing. They are maligned, misunderstood, and misused. Much of the abuse flows from confusion about the many roles of the footnote and a failure to distinguish among different types of law writing -- the judicial opinion, the brief, the opinion letter, the journal article aimed at other scholars. The type of footnotes referred to here appears in a treatise or law journal article which sets out to map a law domain for practitioners and judges and others. Whether in fact through a footnote or through a reference embedded in the text, the author of such works routinely links the description, analysis, or mapping of the text to relevant authoritative law documents. In most cases, these are documents the reader whose problem lies around the point will want to consult and which may themselves provide further linkages.

Let me make a few observations about how these

print references work, at the risk of boring you
with a restatement of the obvious.

  * Footnotes reveal the fundamental dependence
of most treatises on a library of referenced
material. The typical treatise carries an implicit
assumption that the reader has access to most of
the material cited in the text, although not
necessary precisely at the time of reading. These
books do not stand alone.

  * Most readers of most treatises don't read
them from beginning to end. Instead the typical
treatise user enters the book with a problem seeking
some mixture of: overview (assisting issue
identification), legal analysis of the problem area,
and pathways into the law, that is pathways to what
counts as primary authority in our legal system --
statutes, regulations, court opinions and the rest.

  * A reader in pursuit of a solution to a
particular problem can ignore many footnotes, but
will in the end, if fortunate, find some few of
critical importance.

  * Treatise readers expect a high level of
selectivity or author judgment. There may be points
on which all relevant documents can be fit into a
short list and there the reader may expect a footnote
to be comprehensive. But more commonly there will
be many more decisions on the issue than the page
will bear or the reader will wish to consult.
Readers expect the author to screen for validity
and select using other criteria as well such as
precedential weight, clarity, degree of recognition
of the soundness of the position. (Authors who cite
cases overruled at the time of publication are
consigned to one of the hotter regions of hell.)

  * Readers also expect updates, new editions,
pocket parts. The author of a journal piece can
dump it and run, but the author of a treatise that
enjoys any acceptance enters into an ongoing
relationship with the work, including or perhaps
even especially its footnotes.

IV. Electronic Footnotes

  The most immediate gains of electronic
footnotes relate to some of the practical limits
of those in print.

  * In many work settings following a print
reference is difficult or impossible (at the

moment). Consequently, readers follow fewer
references than they would if the move were easier,
they follow references later than they might
otherwise (saving a list of references to pursue),
and authors respond with far more quotation,
excerpting, and summarizing than they would if
readers had swift, easy access to the cited text.

     * Space, visual clutter, information
management questions limit references in print.
The tradeoff is resolved differently in the typical
treatise and the typical annotated statute, but both
illustrate the problem. Consider the many good
reasons, other than author sloth, why few if any
good treatises furnish the leading decision from
each state or U.S. circuit on each point. Yet that
is a feature that most readers in most problem
situations would find useful.

     * Updates are a major problem, no matter how
serious author and publisher are about keeping the
work current.

     Treatise footnotes are embedded in a matrix
or map created by the author. In many fields, an
important set of coordinates is furnished by statute
or regulation, but in few fields can a good treatise
simply adopt the organizing scheme of the underlying
legislation. This is especially true of a statute
like the Social Security Act which has experienced
so much change by tinkering. The original
orderliness of the statute has long ago been covered
by a mosaic of amendments -- many simply fastened
to the nearest section at hand.

     Following the author's map, the reader finds
an area or topic that bears on the problem or issue
that prompted the research.   The software of
both LEXIS and WESTLAW already enable the straight
forward, static footnote move -- the move from a
listed reference to the document and back. The
powerful difference between this electronic
footnote and one in print is that it can be followed
immediately when and where that fits the rhythm of
the reader's pursuit of understanding.

     Both LEXIS and WESTLAW also furnish efficient
ways to pull in a large number of items. Consider
the situation where in print the reference would
be et seq. or this through that or a long list of
items. Wild card characters, short hand forms of
reference, and block and transmit software give the
reader control over that kind of reference that print
does not. Consider a move from a treatise topic

to the several relevant paragraphs of a regulation. One way to implement the move when the units are in a logical sense adjacent would be to trace a path to the first and then have the reader shift into a browse mode and step sequentially through. But an alternative that I find more powerful is the group citation retrieval. This move allows the reader to scan the multiple documents in more detail than the standard footnote, but much less than full text. It enables the reader to investigate the material in non-linear order. It enables the reader to search within the set for key words.

The update cycle from author to footnote revision can be very short with an online treatise. Within weeks my LEXIS Social Security treatise contained references to the important amendments contained in the Omnibus Budget Reconciliation Act of 1990. Updates occur automatically when a document that is pulled by a reference is amended while retaining the same citation identity.

It is, however, the dynamic footnote that has me most excited about this medium. This new type of footnote is prepared by the author from the data side. While in fundamental concept it is not new, the computer gives the concept new power and flexibility and brings the formerly impossible within an author's reach. Even with frequent revision the print footnote is a static presentation from author to reader. The idea here is of a footnote search that the reader fires, or fires and modifies, fires and focuses. A search that in effect says to the author's reference work: What has that footnote got today? It is a search that works because the author has coded the data against the footnotes. That is how my LEXIS treatise connects with appellate decisions.

Note the possibilities this opens for dealing with the too many footnote references problem. First of all the retrieved authorities can be stacked in useful order by court and date. They can also be selected and sorted by the user. The result is a significantly different author/reader partnership, with the author doing at once more and less. The user/reader has far greater control over the direction and precision of the reference.

Each document found through an electronic footnote can itself be a spring board for further exploration, through pursuit of its references or other references to it (the citator move).

In sum the principal gains of the dynamic footnote have to do with author/reader treatment of the quantity problem, cross issue selection and other true database manipulations, and treatment of the datedness problem.

Whether or not many of my colleagues undertake projects exactly like mine, most of them already depend heavily on the electronic library in which my book is held. Depend on it together with the collection of print and other materials that make up the collection of the Cornell Law Library.

INSTITUTIONAL IMPACTS

The law scholar of yesteryear worked alone with books, the materials of note taking and keeping, and a few invisible subordinates. These helpers included one or more student assistants to find cases and check citations, a fraction of a secretary to type and retype manuscripts, and a cadre of invisible people to plant and till the library.

The law scholar of tomorrow will require less of these forms of help. (Long-term secretaries at my school cherish assignment to the few still left on the faculty who require a typist.) But law scholars will require more of new kinds of assistance; for a fast machine, modem, software with free online access furnished by the vendors is not enough. Particularly during the period of transition, but even beyond, the law scholar will require help (professional help) in using these new information tools. And at least at outset that help will have to involve far more collaborative work relationships than have characterized law scholar work in the past.

Where will those who bring equipment and software and data expertise to the scholar's team fit into the modern law school? I am referring to titles, recognition, career lines -- all those thorny questions that librarians have climbed over or around as they have filled in law schools over the past half century. Will these new scholarship collaborators be librarians or at least departmentally based in the library? Perhaps, but there are other models that are plausible alternatives.

A second area of broad effect is law school ecology; or, perhaps, sociology is the better term. What I have in mind is the use and social significance of space. Just as the information

resource denominated "library" presumes a community of interest it also creates communal space. Indeed, there is no space more sacred in my school than the reading room of the law library. Often, not just when raising money from nostalgic alumni, we speak of it as the heart of the school, a laboratory for students and faculty. The location of faculty offices in close proximity to the library collection was a critical design element in our recent building program. In truth, the library has been the law school's laboratory, shared by faculty and students, offering resources that students use side-by-side and see their faculty using. Something important will be lost if this space loses that meaning, and no equivalent expressions of community arise. Of course there can and will be substitutes, we simply must be creative enough to adapt them to our needs.

This summer I had a far closer working relationship with student assistants than I had ever had before. We were working in opposite ends of the building, at computers, on electronically based law data. But we were linked by e-mail. Questions and response flowed much more readily between us than when my assistants worked at carrels in the library stacks not far from my office door.

III. Conclusion

New is not necessarily better. Inevitable changes in methods of information distribution and scholarly communication are likely to threaten not only ways of working with which we are so comfortable and which we so take for granted we identify them with work itself, but also important values that we see, quite rightly, as embodied in institutional structures that rest precariously on obsolete technology. Neither is a sound reason for resisting change; both are reasons for seeking to devise effective new structures.

One reason change in the law scholar's work environment is so inevitable is that the law scholar asserts so little control over it.

The impact of new information technology on the work environment of the law school based academic will be trivial compared to the impact on such larger, more important populations as lawyers and judges, most of whom are quite remote from large print collections and one another -- not to mention the benefits for citizens seeking better access to legal information.

In concluding, let me emphasize what has up to now been unspoken. I view the changes underway as representing immense potential gains for those who seek and use legal information. The fundamental opportunity for all of us during this period of reformation is to shape a system that does the job better. The acquisition of legal information is a major expense for the legal profession and a personal impossibility for most members of the public. So long as information is assembled in libraries and lawyers, administrators, judges, and citizens must go to those places to find and use legal information we will have gross inequality of access. With the library structure, few who live and work outside of large metropolitan centers have adequate access to legal information. Indeed, urban practitioners who are not part of a large firm may face major logistical difficulty in getting information. The truth is that the public institutions founded to expand access, the court and county law libraries, are seriously underfunded right across the United States, with inadequate collections, inadequate staffing, and inadequate services. Electronic information systems make it possible to dream of lawyers, judges, and citizens having easy access to up-to-date, understandable, and comprehensive collections of legal information no matter where they are located geographically or institutionally. Realizing that dream or any semblance of it will require the best efforts of all of us.

INTRODUCING

P. Martin, Social Security Law (1991)

Treatise and Law Collection

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I. What

Martin on Social Security Law is the first law treatise to be written specifically for computer-based use. It was published on the LEXIS® service, June 1, 1991.

Martin on Social Security Law is the only Social Security research tool with a fully integrated set of references, issue by issue, to the Act, Regulations, cases, rulings, POMS, ALR® Annotations, and journal articles. Through LEXIS these references provide immediate access to the full text of the all cited documents (with the exception of the POMS and those journal articles not on the LEXIS service). The treatise is thus not just a reference. It organizes and gives access to a full specialized library.

Not only is the referenced library of materials comprehensive, it is up-to-date. As the Department of Health and Human Services issues new regulations or promulgates annual revisions in the benefit formula in the Federal Register and Congress amends the Act, those changes are reported in Martin on Social Security. They are reported as recent developments, but they are also referenced in the appropriate treatise sections, and all these references provide direct access to the full text of the relevant document. Updating is handled completely on line; there are no separate pocket parts or replacement pages.

The flexibility of LEXIS allows the material to be organized to meet the different needs of different researchers, ranging from a private attorney specializing in Social Security representation to the person needing guidance on eligibility and benefit amount to the judge confronting a particular Social Security issue.

All LEXIS references in Martin on Social Security are executable as written. They are references that have been written and tested by the author. Users can find appropriate authority without having to think of their own search terms. They need not remember or master all important LEXIS commands. To retrieve the authorities referenced by this treatise, all the user must do is transmit the LEXIS reference as presented in the treatise.

II. Who

The author of this treatise and creator of the full collection of supporting materials is Peter W. Martin, former dean and now the Edward Cornell Professor of Law at the Cornell Law School.   Professor Martin has taught and written about Social Security Law for over 20 years. He is the author of journal articles on important Social Security topics and an expert on computer-based legal information systems.

III. Where

Martin on Social Security Law is located in the LEXIS Public Health and Welfare library. To use it, transmit "PUBHW" at the LEXIS library menu.   Once in the Public Health and Welfare library the user simply transmits "TABLE" and the collection is opened.

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                   LIBRARIES -- PAGE 1 of 2

NAME    PG NAME    PG NAME    PG NAME    PG NAME    PG
 - - - - - - L E X I S - U S - - - - - - - - - - - -
GENFED  1 CODES   1 LEGIS   1 STATES  1 ALR     6
 ADMRTY  2 FEDCOM  2 MILTRY  3 CORP    2 LAWREV  6
BANKNG  2 FEDSEC  3 PATENT  3 EMPLOY  2 MARHUB  6
BKRTCY  2 FEDTAX  3 PUBCON  4 HEALTH  3 LEXREF  6
COPYRT  2 IMMIG   3 PUBHW   4 INSRLW  3 ABA     6
ENERGY  2 INTLAW  3 REALTY  4 STENV   4 BNA     6
ENVIRN  2 ITRADE  3 TRADE   4 STSEC   4 CCHSKY  6
ESTATE  2 LABOR   3 TRDMRK  4 STTAX   4
FEDSEN  2 LEXPAT  4 TRANS   5 UCC     5
AC for AUTO-CITE
LXE (LEXSEE) to retrieve a case/document by cite
SHEP for SHEPARD'S   LXT (LEXSTAT) to retrieve a statute by
cite - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -
 NAME   PG DESCRIP                   NAME   PG DESCRIP
----- CASES ---------------- --- P.MARTIN ON SOCIAL SECURITY LAW
Combined COURTS & SSRULE      TABLE   6 Table of SocSec Topics
Fed Pub Benefits & SocSec     SOCSEC  6 Martin SocSec Treatise
State Pub Benefits & SocSec   PMSSCA  7 Martin Selected Cases
Social Security Rulings       PMSSRL  7 Martin Selected Rulings

 --- U.S. CODE/CFR/FEDERAL REGISTER ---
 USCS    2 Titles 26,28,29,30,42,45
 PUBLAW  2 Public Laws
 USCODE  2 Combined USCS & PUBLAW
 ALLCDE  3 Selected State Codes
 CFR     3 Titles 20, 26, 29, 42, 45
 FEDREG  3 Federal Register
 ALLREG  3 Combined FEDREG & CFR
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IV. How

GUIDE TO USE OF P. MARTIN ON SOCIAL SECURITY LAW

A. PRELIMINARY SUGGESTIONS AND EXPLANATIONS

1. USE THE EXECUTABLE REFERENCES: With few exceptions, the cross references and footnotes of this collection are executable.   That means they are written so that you can follow them immediately by transmitting the reference to the LEXIS service precisely as written.   The symbol"=>" is used throughout to indicate that what follows is an executable LEXIS command or string of commands.   The command may move you around within a single document; that is true of all "p*" commands, e.g., "p*act". Other reference commands will take you to another treatise section or launch a search for all cases in point or deliver the key subsection of the Social Security Act.   The subject of the reference or a brief explanation of the action a command will produce always precedes the "=>" symbol.

2. WINDOWS RESEARCH SOFTWARE USERS: The Martin treatise and collection of related material are designed to take full advantage of the LEXIS® 2000 Research Software for WindowsTM.   This environment saves research time and reduces error by allowing the user to point and click or block and transmit the executable references in addition to giving such "screen driven" access to all the standard LEXIS commands.   The Windows environment is especially helpful for taking notes since it comes with an integrated Notepad and two different ways of recording research session results -- the Diary and Recording files.   This Guide will offer specific points for Windows users when appropriate.   For more complete documentation on the LEXIS 2000 Research Software for Windows consult its accompanying User Guide.

B. OVERVIEW OF THE COLLECTION

This collection provides a complete set of reference materials -- a treatise in 2 volumes, selected cases and agency rulings, the Act, agency regulations, and important secondary literature including both ALR Annotations and law journal articles.

Four files, updated regularly, make up its core:

TABLE: The initial entry point for most users.   This file contains an explanation of the full collection and its use, an easy cross over to the treatise which is located in the separate SOCSEC file.   TABLE also contains overviews of the Act and regulations, a full table of topic codes that provide direct access to the relevant cases in the PMSSCA file and rulings in the PMSSRL file, plus a report on recent developments.

SOCSEC: The treatise, divided into 2 volumes.   Each treatise section contains executable cross references to other relevant sections in both volumes.   Those in volume 2

include topic searches that yield relevant cases and rulings.   They also include executable references to the Social Security Act, the regulations, ALR Annotations, and law journal articles.

PMSSCA: All of Martin's selected Social Security decisions, coded with topic codes that link them to the treatise.   PMSSCA presently contains all Social Security decisions of the United States Supreme Court, those of the U.S. Courts of Appeal from 1983 to present, U.S. District Court decisions from 1988 on, plus selected earlier decisions.

PMSSRL: All of Martin's selected Social Security rulings, coded in the same fashion as PMSSCA.   Excluded from this file are rulings that the Agency has rescinded or otherwise held obsolete.

C. HOW AND WHERE TO BEGIN

The collection can be entered in several different ways.   Which is best will be determined by the context and nature of your research problem and by your familiarity with Social Security Law and the LEXIS service in general.

1. USING THE TABLES OF CONTENTS

You can use the treatise Tables of Contents to find the most likely starting point for your research and move directly from the Table of Contents to that section, following its executable reference.   Since each treatise section carries its own table of relevant other sections in executable form, your first section within the treatise will lead you to others.   These moves from Table of Contents to treatise section and from one treatise section to another all utilize the LEXSEE® feature.   Each treatise section has a unique LEXSEE citation that consists of its volume number, the treatise file name "SOCSEC" and the full section number.   Section 150 of volume 1 is retrieved by the LEXIS command "lxe 1 SOCSEC 150" and section D 400 of volume 2, by the LEXIS command "lxe 2 SOCSEC D 400".

2. BROWSING THROUGH THE TREATISE OR PORTIONS OF IT

If you would rather browse through the treatise, section by section, that is readily done. To browse the treatise you need to launch a search against the SOCSEC file that

retrieves either the full treatise or the portion of interest to you. The file has been constructed to make this easy. The treatise documents contain a CITE segment that can be used for such retrieval along with any volume or section number limitations. The search "CITE(SOCSEC)" launched in the SOCSEC file will retrieve the entire treatise. The search "CITE(1 SOCSEC)" will retrieve all of volume 1; the search "CITE(2 SOCSEC)", all of volume 2. Since the sections in volume 2 include a letter followed by a space and a 3 digit number it is easy to retrieve the set of sections dealing with any broad topic. For example, the spouse benefit sections are retrieved by the search "CITE(2 SOCSEC H)"; the sections dealing with establishing disability, by the search "CITE(2 SOCSEC P)".

Having retrieved a set of treatise sections you can display them in the CITE format. That will present the treatise or portion of it you have retrieved as a list of the section numbers and headings. You can select any section from that list as the place to begin browsing by transmitting its number on the list and the command for display in the FULL format.

You browse forward or backward through the retrieved sections by calling for the next document or previous document. During a browse you can display the documents in FULL format or, if you want to limit yourself to the treatise text without bothering with each section's references you can use the SEGMENT format and view only the TEXT segment. (To access the SEGMENT display format transmit the command ".se". The SEGMENT format will also allow you to browse through sections looking only at their references of a particular type -- reviewing just the references to Act and regulations or journal articles and ALR Annotations, topic by topic. Each of the section segments indicated by the "p*" references at the top of the screen in FULL display constitute a portion of the section that can be separately displayed in the SEGMENT format.)

3. USING THE TABLE OF SEARCHABLE TOPICS AND TOPIC CODES

a. TOPIC CODES

The files containing the selected Social Security cases and Social Security Rulings, PMSSCA and PMSSRL, are linked to the treatise by topic codes. Each case and ruling has been assigned codes that relate it to the appropriate sections of volume 2. With only a few exceptions the code for a section is the section number compressed, that is, the section number with no space between the letter and number. For example, the topic code that relates to 2 SOCSEC A 100 is A100; the topic code for 2 SOCSEC D 400 is D400. (Topic codes that include an asterisk or "000" are the one exception to this rule.) To retrieve cases or rulings that deal with a particular treatise topic you merely search the appropriate file, PMSSCA or PMSSRL, using the topic code and limiting your search to the TOPIC segment. The search for all decisions dealing with the topic covered in 2 SOCSEC U 100 is "TOPIC(U100)".

b. SEARCH TERMS ASSOCIATED WITH TOPIC CODES

The sections of volume 2 of the treatise contain executable searches utilizing these topic codes.   The references to cases also include words likely to be associated with the discussion of the topic.   For example, the search for topic A600, which concerns proof of age, is "TOPIC(A600) and age," and the search for topic B320, which concerns application of the excess earnings test to self-employment income, is "TOPIC(B320) and earning or self-employ! or retire!".   The search terms combined with the topic code are not necessary for retrieving the relevant cases; the topic code alone will do that.   Their role is limited to allowing movement to the portions of the documents covering the topic using the KWIC™ display format.

c. WHEN TO USE THE TABLE OF SEARCHABLE TOPICS

The Table of Searchable Topics allows the user who wants only to retrieve cases or rulings relevant to a point to bypass the treatise.   To use it you go directly to the full Table of Searchable Topics, document 2 in the TABLE file, find the topic of interest in that table, transmit the number you find there which will take you to the appropriate table document. That document will contain topic code searches as executable references ready to be launched against the PMSSCA and PMSSRL files.   Where appropriate a topic table document will also alert you to any recent changes that may not be reflected in the cases (such as an amendment to the Act) but are reported on in the treatise, with references.   All topic tables include treatise references allowing you to move directly to the corresponding section of the treatise.

WINDOWS USERS: You may use the mouse to block any executable reference and then point and click on TRANSMIT or use the transmit or enter key.   Keep two important tips in mind when using this "block and transmit" technique:

1. Block only the portion of the reference FOLLOWING the arrow, otherwise the search will not be effective.
  ~Example: Vol. 2~Table of Contents => .cf;SOCSEC;lxe 1 SOCSEC 2
*block off only ".cf;SOCSEC;lxe SOCSEC 2"

2. Block the complete reference all the way to the end.   If the reference extends to a second line you must block the second line all the way out to the margin for the first line!
  ~Example:=>   .es;.cf;cfr;part(k) and cite (20 cfr w/1(416.100*
          or 416.1121*))~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
*block all the way to the end of the line above

4. DIRECT ACCESS OF INDIVIDUAL TREATISE SECTIONS

If you know the treatise section with which you wish either to begin or to resume research you can go directly to it upon entering the Public Health and Welfare Library (PUBHW).   All you need to do is use the LEXSEE feature and the section's LEXSEE citation.   For example, to go directly to section N 100 of volume 2 you would transmit "lxe 2 SOCSEC N 100".

If you keep a printed copy of the treatise Tables of Contents, you can use it to find the treatise section with which you want to begin your research and make regular use of this technique.

The treatise can, in fact, be accessed, using the LEXSEE feature, from any library in the LEXIS service; you need not be in PUBHW.   However, in order to use the references to cases, rulings, and regulations in a treatise section, as written, you must be in PUBHW.

D. DIFFERENT RESEARCH NEEDS, DIFFERENT STRATEGIES

1. STRATEGIES FOR RESEARCHING A SPECIFIC, PRE-DETERMINED ISSUE IN SOCIAL SECURITY LAW:

If you are already familiar with Social Security Law and have one or more narrow issues to research, you will in most cases want to begin with the Table of Contents to volume 2. For example, if your client's eligibility for benefits as a surviving spouse rests on an issue of marital status you would enter the Table of Contents and either page down through the table or transmit the "p*" command which will bring you directly to the "Spouse Benefits" topics in the table (p*6).   There you are offered a list of volume 2 section headings that relate to various aspects of the marital status issue.   For each section the table furnishes the executable references combining the LEXSEE command with the section citation in LEXSEE search format (e.g., " => lxe 2 SOCSEC H 110".   Transmitting that executable reference (Windows users: block and transmit) takes you directly to the section.   Each volume 2 section contains references to sections of the Act, to rulings in the PMSSRL file, to cases in the PMSSCA file, to other treatise sections in the SOCSEC file, and to other sources in LEXIS, plus important print sources including the POMS.   All references to material in LEXIS are set up with executable references allowing you to retrieve them by transmitting the references exactly as displayed on the screen (Windows Users: by blocking and transmitting).

IMPORTANT: Before you execute a reference taking you away from a section to which you may wish to return make a note of the LEXSEE citation of the section you are leaving.   (See section G, below, on returning)

2. STRATEGIES FOR OBTAINING A BROAD OVERVIEW OF SOCIAL SECURITY LAW

If you want to familiarize yourself with Social Security law generally, the treatise is also the place to begin. Volume 1 of the treatise contains an overview of Social Security law, with extensive executable references that allow you to move throughout the collection of materials directly from introductory treatment to more detailed coverage of any issue. Volume 2 of the treatise allows you to review narrower issues, including the type of issues most likely to be the focus of Social Security appeals. Either volume can be explored from its Table of Contents or by the search and browse technique. (See section C above)

3. STRATEGIES FOR INITIAL EXPLORATION OF ISSUES OF ENTITLEMENT, BENEFIT AMOUNT OR PROCEDURE

Volume 1 is organized around different benefit types and general features of the program. Its organization reflects the initial questions an individual may have about benefits under Social Security and how they are pursued. Volume 2, by contrast, is organized around issues or categories that are important in appeals or litigation. This makes volume 1, entered through its Table of Contents, the recommended starting point for a researcher who has a specific situation or problem in mind but wants more introduction to Social Security Law or wants to locate any potential Social Security issues within the broader framework of the program.

IMPORTANT: Before you execute a reference taking you away from a section in either volume of the treatise to which you may wish to return make a note of the LEXSEE citation of the section you are leaving. (See section G, below, on returning)

E. WORKING WITH AND VIEWING RETRIEVED REFERENCES

As noted above the executable references in the treatise take you to relevant documents through a variety of means. Each provides a different set of options upon arrival.

References to other treatise sections, to individual cases or rulings, to journal articles and ALR Annotations all utilize the LEXSEE feature. Upon reaching the referenced document you can move around within it using the standard LEXIS commands including any "" pages implemented in the document. (The treatise sections are all structured to allow easy movement to all categories of references using the "p*" command.)

*The references to the Act make use of the LEXSTAT® function and in the common case where the reference moves you directly to a particular subsection of the Act the FOCUS™ function as well. You can move around the referenced section by paging up or down. By shifting into the BROWSE mode you can move to preceding or following sections in the Act. (If you are at a subsection in the FOCUS feature, you will have to EXIT FOCUS (.ef) before entering BROWSE or before returning to your treatise starting point.)

*References to the regulations employ a search of the CFR file of PUBHW, using a segment restricted search that retrieves the relevant paragraph or paragraphs. The retrieved documents can be viewed in any of the LEXIS display formats. If the number is small you may wish to browse them in FULL. With a larger number of paragraphs, the CITE display mode allows you to review the paragraph headings to select those that seem most directly relevant to your research for viewing in FULL.

*References to both cases and rulings utilize the topic codes discussed in section C above. Like any LEXIS search the initial search can be modified or be used as the basis for a subsequent FOCUS search. Some topics yield very few cases or rulings, others in areas of disability and administrative procedure or judicial review yield large numbers. In the latter case, you will probably want to modify your search with a date restriction using the DATE segment (e.g., "and DATE(>1988)") or with a court restriction using the COURT segment (e.g., "and COURT(supreme or 2nd)"). In many disability situations a COURT segment restriction limiting your search to decisions of the Supreme Court and the Circuit Court of Appeals for your area will be a reasonable way to deal with a large number of decisions. Since the topic searches of cases include words associated with the issue, viewing them in the KWIC format allows you to find the most relevant portion of each case more easily. But with any decision, of course, you can switch to a FULL display.

F. MAKING USE OF ALTERNATIVE LEXIS SEARCH TECHNIQUES

1. RETRIEVING RELEVANT CASES OR RULINGS USING THE FULL FILE OR BROAD CATEGORY SEARCHES: There may be situations where you want to search the cases in PMSSCA or the rulings in PMSSRL without using the topic codes associated with the volume 2 sections. Documents in both files have also been coded with broader category codes. These are:

Category	Topic Code	Search
Disability	SSDIS	TOPIC(SSDIS)
Family Benefit	SSFAM	TOPIC(SSFAM)
General	SSGEN	TOPIC(SSGEN)
Attorneys Fees	SSATT	TOPIC(SSATT)

Retrieving cases involving a specific medical condition not covered in one of the treatise sections or involving particular medication or family benefit cases from your state may be best accomplished by a standard LEXIS search of the PMSSCA file, using the relevant general category code or one of the more general of the topic codes like the code that applies to all claims involving an issue of disability (N600).

2. RETRIEVING RELEVANT CASES OR RULINGS USING MORE THAN ONE TOPIC CODE: Each decision in PMSSCA is coded against all relevant sections in volume 2 of the treatise. The searches set up with each section retrieve those coded to that section, but you can modify

such a search to include another topic code which results in a retrieval of only those cases that bear on both topics.   For example you can retrieve cases involving disability claimants focusing on when the person became disabled with the search TOPIC(N700) and cases involving mental impairments with the search TOPIC(P710).   Combining the two in a single search retrieves cases with both aspects -- e.g., TOPIC(N700 and P710).   Unless you also combine associated search terms from the respective topic searches, you will need to page through your retrieved documents in FULL or do a subsequent FOCUS search on particular terms.   The topic codes alone will not highlight any of the relevant portions of the text.

G. RETURNING TO YOUR STARTING POINT IN THE TREATISE

Before you execute a reference taking you away from a section to which you may wish to return make a note of the LEXSEE citation of the section you are leaving.   (The treatise sections include reminders of this return citation in "TO RETURN =>" messages in the reference segments.)

Except when you have moved to the Act through the LEXSTAT feature, RESUME will not return you to your starting point in the treatise.   Most movements to and around the treatise involve use of the LEXSEE feature, and each new LEXSEE request shifts the LEXIS starting point. The new document replaces the prior one in the LEXIS software as the point to which RESUME will return you.   Retrieving all cases or rulings on a topic involves exiting the LEXSEE feature altogether so the starting point is lost in those instances as well.   Since the LEXIS software does not remember your starting point you must.

Only with a LEXSTAT reference to the Act will RESUME bring you back to the treatise section from which you began (because that move involves a separate LEXIS feature).   If the original executable reference took you directly to a subsection of the Act rather than an entire section, that involved use of the FOCUS feature.   To return in such cases you must first EXIT FOCUS (.ef) and then RESUME or combining commands ".ef;res".

WINDOWS USERS: The Notepad gives you an easy way to keep track of your current base section in the treatise.   Before leaving a section to which you may want to return, copy its "TO RETURN" command to the Notepad.   To do that you need only block the command on the Session Manager screen, select copy from the "Edit" pull down menu, shift to Notepad (Alt-Tab if you have it open and are moving back and forth between it and the Session Manager), and paste the return command into the Notepad before returning to the Session Manager and your reference move.

H. SAVING YOUR RESEARCH RESULTS

You can save any documents you retrieve by recording your session to a file or by printing documents either to disk or printer using the standard LEXIS commands.

WINDOWS USERS: You have two additional means of saving your work.   In addition to the "Recording" file option, you can copy parts of the documents you retrieve to a "Diary" file.   This allows more selective saving along with some automatic notation as to source, creating a file that you can subsequently annotate or combine with other research notes. These other research notes can be begun during a research session using the "Notepad" option.   The Notepad can also be used to save locations in the treatise or topic based searches for future use.   Material can be copied from the Notepad back to the Windows Session Manager.

I. WHAT TO DO IF YOU GET LOST

If you find yourself in the middle of a regulation or decision or section of the Act uncertain about how to return to your starting point in the treatise, the best way to recover your bearings is to use the LEXSEE feature to move to the Table of Contents of the treatise volume from which you were working.   The LEXSEE request for the Table of Contents to volume 1 is "lxe 1 SOCSEC 1" and that for the Table of Contents of volume 2 is "lxe 1 SOCSEC 2".   If you are in the FOCUS feature you will first have to EXIT FOCUS (.ef).   If you have kept a print copy of the Tables of Contents you can instead use it to determine what treatise section you want to return to.

J. RESEARCH SHORTCUTS

1. KEYING IN LEXSEE REFERENCES: You need not type in "lxe" every time you transmit a LEXSEE request once you are in the LEXSEE feature.   All you need do is transmit the LEXSEE citation following the "lxe" prefix.   Moves back to the treatise from any other file or any LEXSEE request while browsing through the treatise having retrieved all or part of it through a search will require including "lxe" with the reference.

2. SKIPPING THE SEARCH WORDS IN A TOPIC SEARCH: Since the search words added to the topic code in the case references of volume 2 sections and the Table of Searchable Topics are useful only to allow the KWIC display of the most relevant parts of the retrieved documents you can omit them from a search and use your own FOCUS terms or some other means for exploring the documents you retrieve.   Leaving the additional search words off the original topic search will speed it up.

3. GOING DIRECTLY TO SPECIFIC SECTIONS OF THE TREATISE: If you are resuming research and would like to continue work on a specific section of the treatise, you can use the LEXSEE feature to move directly to that section from the PUBHW library.   If you have a printed copy of the Tables of Contents of the treatise you can use this same technique in beginning a new research session by locating your starting point from them.

Appendix

P. Martin, Social Security Law (1991)

1. TABLE OF CONTENTS - VOLUME 1

Benefits Based on Family Relationship

Benefits for Surviving Spouse of a Deceased Worker

Benefits for Surviving Child of a Deceased Worker

Benefits for Surviving Parent of a Deceased Worker

Benefits for Spouse of an Old-Age or Disability Benefits Recipient

2. TABLE OF CONTENTS - VOLUME 2

Judicial Review

Administrative Process

General Legal Issues
```
Constitutional Law and Social Security
  Other Issues: e.g., Equal Protection,
  Substantive Due Process, Taking    =>   lxe 2 SOCSEC F 100
  Gender Distinctions                =>   lxe 2 SOCSEC F 110
  Procedural Due Process             =>   lxe 2 SOCSEC F 120
Statutory Interpretation             =>   lxe 2 SOCSEC F 200
Interpretation or Validity of
  a Regulation                       =>   lxe 2 SOCSEC F 300
Effect of a New or Amended Statutory
  Provision on Current Claims        =>   lxe 2 SOCSEC F 400
Effect of a New or Amended Regulation
  on Current Claims                  =>   lxe 2 SOCSEC F 500
Legal Effect of Social Security
  Rulings                            =>   lxe 2 SOCSEC F 600
Legal Effect of the POMS             =>   lxe 2 SOCSEC F 700
```

Family Benefits

Entitlement as Spouse
```
In General                           =>   lxe 2 SOCSEC H 010
Marital Status
  State Law
    In General                       =>   lxe 2 SOCSEC H 100
    Common Law Marriage              =>   lxe 2 SOCSEC H 110
    Validity of Ceremonial Marriage  =>   lxe 2 SOCSEC H 120
    Effect of State Law Presumptions =>   lxe 2 SOCSEC H 130
    Validity of Divorce or Annulment =>   lxe 2 SOCSEC H 140
    "Putative Spouse" Under
      State Law                      =>   lxe 2 SOCSEC H 150
    Focus on State Intestacy Law     =>   lxe 2 SOCSEC H 160
Marital Status
  Marriage Deemed Valid Under Social
  Security Act, Not Under State Law
    In General                       =>   lxe 2 SOCSEC H 200
    Requirement of Good Faith        =>   lxe 2 SOCSEC H 210
    Requirement That Claimant Be
      Living With the Insured        =>   lxe 2 SOCSEC H 220
Competing Spouse Claims              =>   lxe 2 SOCSEC H 300
Entitlement as Divorced Spouse
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  Duration of Marriage Prior to
    Divorce                          =>   lxe 2 SOCSEC H 410
Entitlement as Younger Spouse Caring
  for Eligible Child                 =>   lxe 2 SOCSEC H 500
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With Duration or Timing of the Marriage
  In General                         =>   lxe 2 SOCSEC H 600
  Accidental Death                   =>   lxe 2 SOCSEC H 700
Effect of Remarriage                 =>   lxe 2 SOCSEC H 800
```

Disability Benefits

Claimant Categories
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  Insurance   => lxe 2 SOCSEC N 100
SSI Disability Benefit Claim   => lxe 2 SOCSEC N 200
Disabled Widow(er) - Survivors
  Benefits   => lxe 2 SOCSEC N 300
Older Child Eligible Because of
  Disability   => lxe 2 SOCSEC N 400
Claim for a Period of Disability
  Earnings Record Freeze Apart From
  Benefit Claim   => lxe 2 SOCSEC N 500

Context of Disability Issue
Initial Finding of Disability   => lxe 2 SOCSEC N 600
Focus on When Person Became Disabled => lxe 2 SOCSEC N 700
Terminating Disability Benefits
  In General   => lxe 2 SOCSEC N 800
  Medical Improvement   => lxe 2 SOCSEC N 810
  Trial Work   => lxe 2 SOCSEC N 820
  Revised View of Original
    Determination   => lxe 2 SOCSEC N 830
  Reasons Other Than Medical   => lxe 2 SOCSEC N 840

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Overall Treatment of Burden of Proof
  and Evidence   => lxe 2 SOCSEC P 010
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  Activity
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    Sheltered Work Issues   => lxe 2 SOCSEC P 210
    Self-Employment Issues   => lxe 2 SOCSEC P 220
    Treatment of Impairment Expenses => lxe 2 SOCSEC P 230
Threshold Test of Severity   => lxe 2 SOCSEC P 300
Listed Impairment or Equivalent   => lxe 2 SOCSEC P 400
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  Work   => lxe 2 SOCSEC P 500
Medical/Vocational Guidelines (Grid)
  In General   => lxe 2 SOCSEC P 600
  Non-Exertional Impairments   => lxe 2 SOCSEC P 610
  Claimant's Residual Functional
    Capacity   => lxe 2 SOCSEC P 620
  Age   => lxe 2 SOCSEC P 630
  Education   => lxe 2 SOCSEC P 640
  Work Experience   => lxe 2 SOCSEC P 650
  Work Level (Light,
    Sedentary, etc.)   => lxe 2 SOCSEC P 660
  Transferrable or Marketable Skills => lxe 2 SOCSEC P 680

Especially Difficult Types of Impairment

Mental Impairment, Psychological Problems	=> lxe 2 SOCSEC P 710
Mental Retardation, Limited I.Q.	=> lxe 2 SOCSEC P 720
Impaired Vision, Blindness	=> lxe 2 SOCSEC P 730
Pain or Other Subjective Complaints	=> lxe 2 SOCSEC P 740
Alcoholism or Drug Addiction	=> lxe 2 SOCSEC P 750
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Failure to Obtain Treatment or Use Medication	=> lxe 2 SOCSEC P 840
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Workers' Compensation Offset	=> lxe 2 SOCSEC Q 300
Public Pension Offset	=> lxe 2 SOCSEC Q 400
Interplay of DI with SSI Benefits	=> lxe 2 SOCSEC Q 500
Interplay of DI With Black Lung Benefits	=> lxe 2 SOCSEC Q 600
Effect of Being Confined to an Institution	=> lxe 2 SOCSEC Q 700

Attorneys Fees

Attorneys Fees Awarded Under Equal Access to Justice Act

Attorneys Fees Under Social Security Act

Like a print treatise, Martin on Social Security Law guides the researcher to relevant material through a full table of contents and index. It need not be searched. Suppose, for example, an attorney represents a Social Security disability insurance claimant who has been denied benefits despite substantial evidence of alcohol abuse. Consulting the table of contents to Volume 2 of the Martin treatise (lxe 1 SOCSEC 2) or the index (lxe 1 SOCSEC 10) the attorney finds that disability issues involving alcoholism or drug addiction are covered in section P 750 of Volume 2. Like all references in the online treatise those in the table of contents and index are executable. In other words, they contain the precise commands to retrieve the cited document, in this case "lxe 2 SOCSEC P 750." Following that reference to the treatise section, the attorney finds a summary of the topic, and executable references that retrieve relevant cases, the key statute and regulation provisions, Social Security Rulings, law journal articles and A.L.R. Annotations. Using the executable topic search of Martin's selected cases on this issue yields over one hundred decisions, better than a dozen from 1991, including important recent decisions of the First, Seventh, and Eight Circuit Courts of Appeals. Like any LEXIS search, the treatise topic search can be modified to limit the reference to decisions of a particular Circuit or District Court.

Returning to the treatise section (lxe 2 SOCSEC P 750) the researcher can next proceed to follow its executable references to the two relevant Social Security rulings, to two law journal articles on the subject available in full text on LEXIS, and to an A.L.R. annotation. In one session, on-line, the researcher is directed to a full collection of authorities on alcoholism and Social Security disability determinations.

Martin's treatise brings the organization of a book or speciality service directly into LEXIS where its "electronic footnotes" can provide immediate full-text access to all the important underlying documents.

INTRODUCING A NEW RESEARCH TOOL --
MARTIN ON SOCIAL SECURITY LAW

I. What and Where Is It?

Martin on Social Security Law is the first law treatise to be written specifically for computer-based use.   It was published on the LEXIS® service, June 1, 1991.

Martin on Social Security Law is the only Social Security research tool with a fully integrated set of references, issue by issue, to the Act, Regulations, cases, rulings, POMS, ALR® Annotations, and journal articles.   Through LEXIS these references provide immediate access to the full text of the all cited documents (with the exception of the POMS and those journal articles not on the LEXIS service).   The treatise is thus not just a reference.   It organizes and gives access to a full specialized library.

Not only is the referenced library of materials comprehensive, it is up-to-date.   As the Department of Health and Human Services issues new regulations or promulgates annual revisions in the benefit formula in the Federal Register and Congress amends the Act, those changes are reported in Martin on Social Security.   They are reported as recent developments, but they are also referenced in the appropriate treatise sections, and all these references provide direct access to the full text of the relevant document.   Updating is handled completely on line; there are no separate pocket parts or replacement pages.

The flexibility of LEXIS allows the material to be organized to meet the different needs of different researchers, ranging from a private attorney specializing in Social Security representation to the person needing guidance on eligibility and benefit amount to the judge confronting a particular Social Security issue.

All LEXIS references in Martin on Social Security are executable as written.   They are references that have been written and tested by the author.   Users can find appropriate authority without having to think of their own search terms.   They need not remember or master all important LEXIS commands.   To retrieve the authorities referenced by this treatise, all the user must do is transmit the LEXIS reference as presented in the treatise.

_____

II. An Example of the Scope and
Flexibility of this Research Tool

Like a print treatise, Martin on Social Security Law, guides the researcher to relevant material through a full table of contents and index.   It does not require special database

searching skills.

Suppose, for example, an attorney represents a Social Security disability insurance claimant who has been denied benefits despite substantial evidence of alcohol abuse. Consulting the table of contents to Volume 2 of the Martin treatise (lxe 1 SOCSEC 2) or the index (lxe 1 SOCSEC 10) the attorney finds that disability issues involving alcoholism or drug addiction are covered in section P 750 of volume 2.   Like all references in this online treatise those in the table of contents and index are executable.   In other words, they contain the precise commands to retrieve the cited document, in this case, "lxe 2 SOCSEC P 750".

Executing that reference the attorney finds at section P 750 both a summary of the topic and further executable references that retrieve relevant cases, the key statute and regulation provisions, Social Security Rulings, law journal articles, and A.L.R. Annotations.

In addition to a short list of key cases, any one of which can be retrieved at once, the section provides an executable topic search of Martin's selected Social Security cases ".es;.cf;PMSSCA;TOPIC(P750) and alcohol! or drug or addict!".   Executing that search yields over 100 decisions on the topic, better than a dozen from 1991, including important recent decisions from the 1st, 7th, and 8th Circuits, U.S. Court of Appeals.   Like any LEXIS search, this one can be modified to limit the reference to decisions of a particular circuit or District Court, Judge, or Date.

Returning to the treatise section "lxe 2 SOCSEC P 750" the researcher can next proceed to follow its executable references to the regulations "lxt 20 cfr 404.1525" and "lxt 20 cfr 404.appendix 1", to the two relevant Social Security rulings ".es;.cf;PMSSRL;TOPIC(P750)", to the two relevant law journal articles available in full text on LEXIS "lxe 50 TENN. L. REV. 425" and "lxe 17 GA. L. REV. 217", to the cited subsection of the statute "lxt 42 usc 423:.fo;d disability defined;.vk1;.fu", and to an A.L.R. annotation "lxe 39 A.L.R. Fed. 182", plus numerous cross references to other sections of the Martin treatise that may bear on such cases.

From one section of the treatise the researcher is directed to a full collection of authorities on alcoholism and Social Security disability determinations.   The treatise brings the organization of a book or specialty service directly into LEXIS where its "electronic footnotes" can provide immediate full-text access to all the important underlying documents.

III. Finding This Resource in LEXIS

Martin on Social Security Law is located in the LEXIS Public Health and Welfare library. To use it, transmit "PUBHW" at the LEXIS library menu.   Once in the Public Health and Welfare library the user simply transmits "TABLE" and the collection is opened.

LIBRARIES -- PAGE 1 of 2

NAME	PG	NAME	PG	NAME	PG	NAME	PG	NAME	PG
- - - - - - L E X I S - U S - - - - - - - - - - -									
GENFED	1	CODES	1	LEGIS	1	STATES	1	ALR	6
FEDCOM	2	MILTRY	3	CORP	2	LAWREV	6		
BANKNG	2	FEDSEC	3	PATENT	3	EMPLOY	2	MARHUB	6
BKRTCY	2	FEDTAX	3	PUBCON	4	HEALTH	3	LEXREF	6

ADMRTY 2

2

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COPYRT  2 IMMIG    3 PUBHW    4 INSRLW  3 ABA       6
ENERGY  2 INTLAW  3 REALTY  4 STENV    4 BNA       6
ENVIRN  2 ITRADE  3 TRADE    4 STSEC    4 CCHSKY  6
ESTATE  2 LABOR    3 TRDMRK  4 STTAX    4
FEDSEN  2 LEXPAT  4 TRANS    5 UCC       5
AC for AUTO-CITE
LXE (LEXSEE) to retrieve a case/document by cite
SHEP for SHEPARD'S     LXT (LEXSTAT) to retrieve a statute by
cite - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -
 NAME   PG DESCRIP                            NAME   PG DESCRIP
----- CASES ----------------   --- P.MARTIN ON SOCIAL SECURITY LAW
Combined COURTS & SSRULE     TABLE    6 Table of SocSec Topics
Fed Pub Benefits & SocSec      SOCSEC  6 Martin SocSec Treatise
State Pub Benefits & SocSec    PMSSCA  7 Martin Selected Cases
Social Security Rulings         PMSSRL  7 Martin Selected Rulings

 --- U.S. CODE/CFR/FEDERAL REGISTER ---
 USCS     2 Titles 26,28,29,30,42,45
 PUBLAW   2 Public Laws
 USCODE   2 Combined USCS & PUBLAW
 ALLCDE   3 Selected State Codes
 CFR      3 Titles 20, 26, 29, 42, 45
 FEDREG   3 Federal Register
 ALLREG   3 Combined FEDREG & CFR
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IV. A Brief "How To" Guide

A. PRELIMINARY SUGGESTIONS AND EXPLANATIONS

1. USE THE EXECUTABLE REFERENCES: With few exceptions, the cross references and footnotes of this collection are executable.   That means they are written so that you can follow them immediately by transmitting the reference to the LEXIS service precisely as written.   The symbol"=>" is used throughout to indicate that what follows is an executable LEXIS command or string of commands.   The command may move you around within a single document; that is true of all "p*" commands, e.g., "p*act". Other reference commands will take you to another treatise section or launch a search for all cases in point or deliver the key subsection of the Social Security Act.   The subject of the reference or a brief explanation of the action a command will produce always precedes the "=>" symbol.

2. WINDOWS RESEARCH SOFTWARE USERS: The Martin treatise and collection of related material are designed to take full advantage of the LEXIS® 2000 Research Software for Windows™.   This environment saves research time and reduces error by allowing the user to point and click or block and transmit the executable references in addition to giving such "screen driven" access to all the standard LEXIS commands.   The Windows environment is especially helpful for taking notes since it comes with an integrated Notepad and two different ways of recording research session results -- the Diary and Recording files.   This Guide will offer specific points for Windows users when appropriate.   For more complete documentation on the LEXIS 2000 Research Software for Windows consult its accompanying User Guide.

B. OVERVIEW OF THE COLLECTION

This collection provides a complete set of reference materials -- a treatise in 2 volumes, selected cases and agency rulings, the Act, agency regulations, and important secondary literature including both ALR Annotations and law journal articles.

Four files, updated regularly, make up its core:

TABLE: The initial entry point for most users.   This file contains an explanation of the full collection and its use, an easy cross over to the treatise which is located in the separate SOCSEC file.   TABLE also contains overviews of the Act and regulations, a full table of topic codes that provide direct access to the relevant cases in the PMSSCA file and rulings in the PMSSRL file, plus a report on recent developments.

SOCSEC: The treatise, divided into 2 volumes.   Each treatise section contains executable cross references to other relevant sections in both volumes.   Those in volume 2 include topic searches that yield relevant cases and rulings.   They also include executable references to the Social Security Act, the regulations, ALR Annotations, and law journal articles.

PMSSCA: All of Martin's selected Social Security decisions, coded with topic codes that link them to the treatise.   PMSSCA presently contains all Social Security decisions of the United States Supreme Court, those of the U.S. Courts of Appeal from 1983 to present, U.S. District Court decisions from 1988 on, plus selected earlier decisions.

PMSSRL: All of Martin's selected Social Security rulings, coded in the same fashion as PMSSCA.   Excluded from this file are rulings that the Agency has rescinded or otherwise held obsolete.

C. HOW AND WHERE TO BEGIN

The collection can be entered in several different ways.   Which is best will be determined by the context and nature of your research problem and by your familiarity with Social Security Law and the LEXIS service in general.

1. USING THE TABLES OF CONTENTS

You can use the treatise Tables of Contents to find the most likely starting point for your research and move directly from the Table of Contents to that section, following its executable reference.   Since each treatise section carries its own table of relevant other sections in executable form, your first section within the treatise will lead you to others.   These moves from Table of Contents to treatise section and from one treatise section to another all utilize the LEXSEE® feature.   Each treatise section has a unique LEXSEE citation that consists of its volume number, the treatise file name "SOCSEC" and the full section number.   Section 150 of volume 1 is retrieved by the LEXIS command "lxe 1 SOCSEC 150" and section D 400 of volume 2, by the LEXIS command "lxe 2 SOCSEC D 400".

2. BROWSING THROUGH THE TREATISE OR PORTIONS OF IT

If you would rather browse through the treatise, section by section, that is readily done. To browse the treatise you need to launch a search against the SOCSEC file that

retrieves either the full treatise or the portion of interest to you. The file has been constructed to make this easy. The treatise documents contain a CITE segment that can be used for such retrieval along with any volume or section number limitations. The search "CITE(SOCSEC)" launched in the SOCSEC file will retrieve the entire treatise. The search "CITE(1 SOCSEC)" will retrieve all of volume 1; the search "CITE(2 SOCSEC)", all of volume 2. Since the sections in volume 2 include a letter followed by a space and a 3 digit number it is easy to retrieve the set of sections dealing with any broad topic. For example, the spouse benefit sections are retrieved by the search "CITE(2 SOCSEC H)"; the sections dealing with establishing disability, by the search "CITE(2 SOCSEC P)".

Having retrieved a set of treatise sections you can display them in the CITE format. That will present the treatise or portion of it you have retrieved as a list of the section numbers and headings. You can select any section from that list as the place to begin browsing by transmitting its number on the list and the command for display in the FULL format.

You browse forward or backward through the retrieved sections by calling for the next document or previous document. During a browse you can display the documents in FULL format or, if you want to limit yourself to the treatise text without bothering with each section's references you can use the SEGMENT format and view only the TEXT segment. (To access the SEGMENT display format transmit the command ".se". The SEGMENT format will also allow you to browse through sections looking only at their references of a particular type -- reviewing just the references to Act and regulations or journal articles and ALR Annotations, topic by topic. Each of the section segments indicated by the "p*" references at the top of the screen in FULL display constitute a portion of the section that can be separately displayed in the SEGMENT format.)

3. USING THE TABLE OF SEARCHABLE TOPICS AND TOPIC CODES

a. TOPIC CODES

The files containing the selected Social Security cases and Social Security Rulings, PMSSCA and PMSSRL, are linked to the treatise by topic codes. Each case and ruling has been assigned codes that relate it to the appropriate sections of volume 2. With only a few exceptions the code for a section is the section number compressed, that is, the section number with no space between the letter and number. For example, the topic code that relates to 2 SOCSEC A 100 is A100; the topic code for 2 SOCSEC D 400 is D400. (Topic codes that include an asterisk or "000" are the one exception to this rule.) To retrieve cases or rulings that deal with a particular treatise topic you merely search the appropriate file, PMSSCA or PMSSRL, using the topic code and limiting your search to the TOPIC segment. The search for all decisions dealing with the topic covered in 2 SOCSEC U 100 is "TOPIC(U100)".

b. SEARCH TERMS ASSOCIATED WITH TOPIC CODES

The sections of volume 2 of the treatise contain executable searches utilizing these topic codes. The references to cases also include words likely to be associated with the discussion of the topic. For example, the search for topic A600, which concerns proof of age, is "TOPIC(A600) and age," and the search for topic B320, which concerns application of the excess earnings test to self-employment income, is "TOPIC(B320) and earning or self-employ! or

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retire!".   The search terms combined with the topic code are not necessary for retrieving the relevant cases; the topic code alone will do that.   Their role is limited to allowing movement to the portions of the documents covering the topic using the KWIC™ display format.

c. WHEN TO USE THE TABLE OF SEARCHABLE TOPICS

The Table of Searchable Topics allows the user who wants only to retrieve cases or rulings relevant to a point to bypass the treatise.   To use it you go directly to the full Table of Searchable Topics, document 2 in the TABLE file, find the topic of interest in that table, transmit the number you find there which will take you to the appropriate table document.   That document will contain topic code searches as executable references ready to be launched against the PMSSCA and PMSSRL files.   Where appropriate a topic table document will also alert you to any recent changes that may not be reflected in the cases (such as an amendment to the Act) but are reported on in the treatise, with references.   All topic tables include treatise references allowing you to move directly to the corresponding section of the treatise.

WINDOWS USERS: You may use the mouse to block any executable reference and then point and click on TRANSMIT or use the transmit or enter key.   Keep two important tips in mind when using this "block and transmit" technique:

1. Block only the portion of the reference FOLLOWING the arrow, otherwise the search will not be effective.
   ~Example: Vol. 2~Table of Contents => .cf;SOCSEC;lxe 1 SOCSEC 2
*block off only ".cf;SOCSEC;lxe SOCSEC 2"

2. Block the complete reference all the way to the end.   If the reference extends to a second line you must block the second line all the way out to the margin for the first line!
   ~Example:=>   .es;.cf;cfr;part(k) and cite (20 cfr w/1(416.100*
           or 416.1121*))~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
*block all the way to the end of the line above

4. DIRECT ACCESS OF INDIVIDUAL TREATISE SECTIONS

If you know the treatise section with which you wish either to begin or to resume research you can go directly to it upon entering the Public Health and Welfare Library (PUBHW).   All you need to do is use the LEXSEE feature and the section's LEXSEE citation.   For example, to go directly to section N 100 of volume 2 you would transmit "lxe 2 SOCSEC N 100".

If you keep a printed copy of the treatise Tables of Contents, you can use it to find the treatise section with which you want to begin your research and make regular use of this technique.

The treatise can, in fact, be accessed, using the LEXSEE feature, from any library in the LEXIS service; you need not be in PUBHW.   However, in order to use the references to cases, rulings, and regulations in a treatise section, as written, you must be in PUBHW.

D. DIFFERENT RESEARCH NEEDS, DIFFERENT STRATEGIES

1. STRATEGIES FOR RESEARCHING A SPECIFIC, PRE-DETERMINED ISSUE IN SOCIAL SECURITY LAW:

If you are already familiar with Social Security Law and have one or more narrow issues to research, you will in most cases want to begin with the Table of Contents to volume 2. For example, if your client's eligibility for benefits as a surviving spouse rests on an issue of marital status you would enter the Table of Contents and either page down through the table or transmit the "p*" command which will bring you directly to the "Spouse Benefits" topics in the table (p*6). There you are offered a list of volume 2 section headings that relate to various aspects of the marital status issue.   For each section the table furnishes the executable references combining the LEXSEE command with the section citation in LEXSEE search format (e.g., " => lxe 2 SOCSEC H 110".   Transmitting that executable reference (Windows users: block and transmit) takes you directly to the section.   Each volume 2 section contains references to sections of the Act, to rulings in the PMSSRL file, to cases in the PMSSCA file, to other treatise sections in the SOCSEC file, and to other sources in LEXIS, plus important print sources including the POMS.   All references to material in LEXIS are set up with executable references allowing you to retrieve them by transmitting the references exactly as displayed on the screen (Windows Users: by blocking and transmitting).

IMPORTANT: Before you execute a reference taking you away from a section to which you may wish to return make a note of the LEXSEE citation of the section you are leaving.   (See section G, below, on returning)

2. STRATEGIES FOR OBTAINING A BROAD OVERVIEW OF SOCIAL SECURITY LAW

If you want to familiarize yourself with Social Security law generally, the treatise is also the place to begin.   Volume 1 of the treatise contains an overview of Social Security law, with extensive executable references that allow you to move throughout the collection of materials directly from introductory treatment to more detailed coverage of any issue.   Volume 2 of the treatise allows you to review narrower issues, including the type of issues most likely to be the

focus of Social Security appeals.   Either volume can be explored from its Table of Contents or by the search and browse technique.   (See section C above)

3. STRATEGIES FOR INITIAL EXPLORATION OF ISSUES OF ENTITLEMENT, BENEFIT AMOUNT OR PROCEDURE

Volume 1 is organized around different benefit types and general features of the program.   Its organization reflects the initial questions an individual may have about benefits under Social Security and how they are pursued.   Volume 2, by contrast, is organized around issues or categories that are important in appeals or litigation.   This makes volume 1, entered through its Table of Contents, the recommended starting point for a researcher who has a specific situation or problem in mind but wants more introduction to Social Security Law or wants to locate any potential Social Security issues within the broader framework of the program.

IMPORTANT: Before you execute a reference taking you away from a section in either volume of the treatise to which you may wish to return make a note of the LEXSEE citation of the section you are leaving.   (See section G, below, on returning)

E. WORKING WITH AND VIEWING RETRIEVED REFERENCES

As noted above the executable references in the treatise take you to relevant documents through a variety of means.   Each provides a different set of options upon arrival.

References to other treatise sections, to individual cases or rulings, to journal articles and ALR Annotations all utilize the LEXSEE feature.   Upon reaching the referenced document you can move around within it using the standard LEXIS commands including any "" pages implemented in the document.   (The treatise sections are all structured to allow easy movement to all categories of references using the "p*" command.)

*The references to the Act make use of the LEXSTAT® function and in the common case where the reference moves you directly to a particular subsection of the Act the FOCUS™ function as well.   You can move around the referenced section by paging up or down. By shifting into the BROWSE mode you can move to preceding or following sections in the Act.   (If you are at a subsection in the FOCUS feature, you will have to EXIT FOCUS (.ef) before entering BROWSE or before returning to your treatise starting point.)

*References to the regulations employ a search of the CFR file of PUBHW, using a segment restricted search that retrieves the relevant paragraph or paragraphs.   The retrieved documents can be viewed in any of the LEXIS display formats.   If the number is small you may wish to browse them in FULL.   With a larger number of paragraphs, the CITE display mode allows you to review the paragraph headings to select those that seem most directly relevant to your research for viewing in FULL.

*References to both cases and rulings utilize the topic codes discussed in section C above. Like any LEXIS search the initial search can be modified or be used as the basis for a subsequent FOCUS search.   Some topics yield very few cases or rulings, others in areas of disability and administrative procedure or judicial review yield large numbers.   In the latter case, you will

probably want to modify your search with a date restriction using the DATE segment (e.g., "and DATE(>1988)") or with a court restriction using the COURT segment (e.g., "and COURT(supreme or 2nd)").   In many disability situations a COURT segment restriction limiting your search to decisions of the Supreme Court and the Circuit Court of Appeals for your area will be a reasonable way to deal with a large number of decisions.   Since the topic searches of cases include words associated with the issue, viewing them in the KWIC format allows you to find the most relevant portion of each case more easily.   But with any decision, of course, you can switch to a FULL display.

F. MAKING USE OF ALTERNATIVE LEXIS SEARCH TECHNIQUES

      1. RETRIEVING RELEVANT CASES OR RULINGS USING THE FULL FILE OR BROAD CATEGORY SEARCHES: There may be situations where you want to search the cases in PMSSCA or the rulings in PMSSRL without using the topic codes associated with the volume 2 sections. Documents in both files have also been coded with broader category codes.   These are:

Category	Topic Code	Search
Disability	SSDIS	TOPIC(SSDIS)
Family Benefit	SSFAM	TOPIC(SSFAM)
General	SSGEN	TOPIC(SSGEN)
Attorneys Fees	SSATT	TOPIC(SSATT)

Retrieving cases involving a specific medical condition not covered in one of the treatise sections or involving particular medication or family benefit cases from your state may be best accomplished by a standard LEXIS search of the PMSSCA file, using the relevant general category code or one of the more general of the topic codes like the code that applies to all claims involving an issue of disability (N600).

      2. RETRIEVING RELEVANT CASES OR RULINGS USING MORE THAN ONE TOPIC CODE: Each decision in PMSSCA is coded against all relevant sections in volume 2 of the treatise.   The searches set up with each section retrieve those coded to that section, but you can modify such a search to include another topic code which results in a retrieval of only those cases that bear on both topics.   For example you can retrieve cases involving disability claimants focusing on when the person became disabled with the search TOPIC(N700) and cases involving mental impairments with the search TOPIC(P710).   Combining the two in a single search retrieves cases with both aspects -- e.g., TOPIC(N700 and P710).   Unless you also combine associated search terms from the respective topic searches, you will need to page through your retrieved documents in FULL or do a subsequent FOCUS search on particular terms.   The topic codes alone will not highlight any of the relevant portions of the text.

G. RETURNING TO YOUR STARTING POINT IN THE TREATISE

      Before you execute a reference taking you away from a section to which you may wish to return make a note of the LEXSEE citation of the section you are leaving.   (The treatise sections include reminders of this return citation in "TO RETURN =>" messages in the reference segments.)

      Except when you have moved to the Act through the LEXSTAT feature, RESUME will not

return you to your starting point in the treatise.   Most movements to and around the treatise involve use of the LEXSEE feature, and each new LEXSEE request shifts the LEXIS starting point. The new document replaces the prior one in the LEXIS software as the point to which RESUME will return you.   Retrieving all cases or rulings on a topic involves exiting the LEXSEE feature altogether so the starting point is lost in those instances as well.   Since the LEXIS software does not remember your starting point you must.

Only with a LEXSTAT reference to the Act will RESUME bring you back to the treatise section from which you began (because that move involves a separate LEXIS feature).   If the original executable reference took you directly to a subsection of the Act rather than an entire section, that involved use of the FOCUS feature.   To return in such cases you must first EXIT FOCUS (.ef) and then RESUME or combining commands ".ef;res".

WINDOWS USERS: The Notepad gives you an easy way to keep track of your current base section in the treatise.   Before leaving a section to which you may want to return, copy its "TO RETURN" command to the Notepad.   To do that you need only block the command on the Session Manager screen, select copy from the "Edit" pull down menu, shift to Notepad (Alt-Tab if you have it open and are moving back and forth between it and the Session Manager), and paste the return command into the Notepad before returning to the Session Manager and your reference move.

H. SAVING YOUR RESEARCH RESULTS

You can save any documents you retrieve by recording your session to a file or by printing documents either to disk or printer using the standard LEXIS commands.

WINDOWS USERS: You have two additional means of saving your work.   In addition to the "Recording" file option, you can copy parts of the documents you retrieve to a "Diary" file. This allows more selective saving along with some automatic notation as to source, creating a file that you can subsequently annotate or combine with other research notes.   These other research notes can be begun during a research session using the "Notepad" option.   The Notepad can also be used to save locations in the treatise or topic based searches for future use. Material can be copied from the Notepad back to the Windows Session Manager.

I. WHAT TO DO IF YOU GET LOST

If you find yourself in the middle of a regulation or decision or section of the Act uncertain about how to return to your starting point in the treatise, the best way to recover your bearings is to use the LEXSEE feature to move to the Table of Contents of the treatise volume from which you were working.   The LEXSEE request for the Table of Contents to volume 1 is "lxe 1 SOCSEC 1" and that for the Table of Contents of volume 2 is "lxe 1 SOCSEC 2".   If you are in the FOCUS feature you will first have to EXIT FOCUS (.ef).   If you have kept a print copy of the Tables of Contents you can instead use it to determine what treatise section you want to return to.

J. RESEARCH SHORTCUTS

1. KEYING IN LEXSEE REFERENCES: You need not type in "lxe" every time you transmit a

LEXSEE request once you are in the LEXSEE feature.   All you need do is transmit the LEXSEE citation following the "lxe" prefix.   Moves back to the treatise from any other file or any LEXSEE request while browsing through the treatise having retrieved all or part of it through a search will require including "lxe" with the reference.

       2. SKIPPING THE SEARCH WORDS IN A TOPIC SEARCH: Since the search words added to the topic code in the case references of volume 2 sections and the Table of Searchable Topics are useful only to allow the KWIC display of the most relevant parts of the retrieved documents you can omit them from a search and use your own FOCUS terms or some other means for exploring the documents you retrieve.   Leaving the additional search words off the original topic search will speed it up.

3. GOING DIRECTLY TO SPECIFIC SECTIONS OF THE TREATISE: If you are resuming research and would like to continue work on a specific section of the treatise, you can use the LEXSEE feature to move directly to that section from the PUBHW library.   If you have a printed copy of the Tables of Contents of the treatise you can use this same technique in beginning a new research session by locating your starting point from them.

P. Martin, Social Security Law (1991)

2. TABLE OF CONTENTS - VOLUME 2

General Legal Issues

Constitutional Law and Social Security
Other Issues, e.g., Equal Protection,
Substantive Due Process, Taking   => lcc 2 SOCSEC F100
  Gender Distinctions   => lcc 2 SOCSEC F110
  Procedural Due Process   => lcc 2 SOCSEC F120
Statutory Interpretation   => lcc 2 SOCSEC F200
Interpretation or Validity of
  a Regulation   => lcc 2 SOCSEC F300
Effect of a New or Amended Statutory
  Provision on Current Claims   => lcc 2 SOCSEC F400
Effect of a New or Amended Regulation
  on Current Claims   => lcc 2 SOCSEC F500
Legal Effect of Social Security
  Rulings   => lcc 2 SOCSEC F600
Legal Effect of the POMS   => lcc 2 SOCSEC F700

Family Benefits

Entitlement as Spouse

In General   => lcc 2 SOCSEC H010
Marital Status
  State Law
    In General   => lcc 2 SOCSEC H100
    Common Law Marriage   => lcc 2 SOCSEC H110
    Validity of Ceremonial Marriage => lcc 2 SOCSEC H120
    Effect of State Law Presumptions => lcc 2 SOCSEC H130
    Validity of Divorce or Annulment => lcc 2 SOCSEC H140
    "Putative Spouse" Under
      State Law   => lcc 2 SOCSEC H150
    Focus on State Intestacy Law   => lcc 2 SOCSEC H160
Marital Status
  Marriage Deemed Valid Under Social
  Security Act, Not Under State Law
    In General   => lcc 2 SOCSEC H200
    Requirement of Good Faith   => lcc 2 SOCSEC H210
    Requirement That Claimant Be
      Living With the Insured   => lcc 2 SOCSEC H220
Competing Spouse Claims   => lcc 2 SOCSEC H300
Entitlement as Divorced Spouse
  In General   => lcc 2 SOCSEC H400
  Duration of Marriage Prior to
    Divorce   => lcc 2 SOCSEC H410
Entitlement as Younger Spouse Caring
  for Eligible Child   => lcc 2 SOCSEC H500
Spouse Benefit Issues Having to do
With Duration or Timing of the Marriage
  In General   => lcc 2 SOCSEC H600
  Accidental Death   => lcc 2 SOCSEC H700
Effect of Remarriage   => lcc 2 SOCSEC H800

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Public Pension Offset   => lce 2 SOCSEC M 400

Disability Benefits

Claimant Categories

Disabled Worker - Disability
  Insurance   =>   lxe 2 SOCSEC N100
SSI Disability Benefit Claim   =>   lxe 2 SOCSEC N200
Disabled Widow(er) - Survivors
  Benefits   =>   lxe 2 SOCSEC N300
Older Child Eligible Because of
  Disability   =>   lxe 2 SOCSEC N400
Claim for a Period of Disability
  Earnings Record Freeze Apart From
  Benefit Claim   =>   lxe 2 SOCSEC N500

Context of Disability Issue

Initial Finding of Disability   =>   lxe 2 SOCSEC N600
Focus on When Person Became Disabled =>   lxe 2 SOCSEC N700
Terminating Disability Benefits
  In General   =>   lxe 2 SOCSEC N800
  Medical Improvement   =>   lxe 2 SOCSEC N810
  Trial Work   =>   lxe 2 SOCSEC N820
  Revised View of Original
    Determination   =>   lxe 2 SOCSEC N830
  Reasons Other Than Medical   =>   lxe 2 SOCSEC N840

Establishing Disability

Overall Treatment of Burden of Proof
  and Evidence   =>   lxe 2 SOCSEC P010
Duration of Disability   =>   lxe 2 SOCSEC P100
Claimant Engaged in Substantial Gainful
  Activity
    In General   =>   lxe 2 SOCSEC P200
    Sheltered Work Issues   =>   lxe 2 SOCSEC P210
    Self Employment Issues   =>   lxe 2 SOCSEC P220
    Treatment of Impairment Expenses =>   lxe 2 SOCSEC P230
Threshold Test of Severity   =>   lxe 2 SOCSEC P300
Listed Impairment or Equivalent   =>   lxe 2 SOCSEC P400
Ability to Perform Past Relevant
  Work   =>   lxe 2 SOCSEC P500
Medical Vocational Guidelines (Grid)
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  Non Exertional Impairments   =>   lxe 2 SOCSEC P610
  Claimant's Residual Functional
    Capacity   =>   lxe 2 SOCSEC P620
  Age   =>   lxe 2 SOCSEC P630
  Education   =>   lxe 2 SOCSEC P640
  Work Experience   =>   lxe 2 SOCSEC P650
  Work Level (Light,
    Sedentary, etc.)   =>   lxe 2 SOCSEC P660
  Transferable or Marketable Skills =>   lxe 2 SOCSEC P680

Especially Difficult Types of Impairment

Mental Impairment, Psychological Problems	=> lce 2 SOCSEC P710
Mental Retardation, Limited I.Q.	=> lce 2 SOCSEC P720
Impaired Vision, Blindness	=> lce 2 SOCSEC P730
Pain or Other Subjective Complaints	=> lce 2 SOCSEC P740
Alcoholism or Drug Addiction	=> lce 2 SOCSEC P750
Multiple or Combined Impairments	=> lce 2 SOCSEC P760

Issues of Medical Evidence

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Treating Physician	=> lce 2 SOCSEC P810
Non-Examining Physician	=> lce 2 SOCSEC P820
Need for a Medical Exam	=> lce 2 SOCSEC P830
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Side Effects of Treatment or Medication	=> lce 2 SOCSEC P850
Treatment of New Medical Evidence	=> lce 2 SOCSEC P860

Establishing the Availability of Work Claimant Can Perform

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Vocational Expert Testimony or Report	=> lce 2 SOCSEC P920
Hypotheticals Posed to Vocational Expert	=> lce 2 SOCSEC P930

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Special Insured Status Test for Disability Benefits	
In General	=> lce 2 SOCSEC Q100
Variant Applied to Blind Claimants	=> lce 2 SOCSEC Q110
Interplay of D.I With Benefits Under Railroad Retirement Act	=> lce 2 SOCSEC Q200
Workers' Compensation Offset	=> lce 2 SOCSEC Q300
Public Pension Offset	=> lce 2 SOCSEC Q400
Interplay of D.I with SSI Benefits	=> lce 2 SOCSEC Q500
Interplay of D.I With Black Lung Benefits	=> lce 2 SOCSEC Q600
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Attorneys Fees Awarded Under Equal Access to Justice Act

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  Justified => lce 2 SOCSEC T 100
Was the Claimant a Prevailing Party => lce 2 SOCSEC T 200
Rate or Amount of Award => lce 2 SOCSEC T 300
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Relationship of EAJA Fee Claims to Claims
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  a Final Decision => lce 2 SOCSEC T 600
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Attorneys Fees Under Social Security Act

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  Special Consideration of
    Contingent Fee => lce 2 SOCSEC U 110
  Use of "Lodestar" => lce 2 SOCSEC U 120
Past Due Benefits From Which Payable => lce 2 SOCSEC U 200
Fees for Work Before the Agency => lce 2 SOCSEC U 300
Class Actions => lce 2 SOCSEC U 400

Martin on Social Security Law is the first law treatise to be written specifically for computer-based use. It was published on the LEXIS service, June 1, 1991.

Martin on Social Security Law is the only Social Security research tool with a fully integrated set of references, issue by issue, to the Act, Regulations, cases, rulings, POMS, ALR® Annotations, and journal articles. Through LEXIS these references provide immediate access to the full text of the all cited documents (with the exception of the POMS and those journal articles not on the LEXIS service). The treatise is thus not just a reference. It organizes and gives access to a full specialized library.

Not only is the referenced library of materials comprehensive, it is up-to-date. As the Department of Health and Human Services issues new regulations or promulgates annual revisions in the benefit formula in the Federal Register and Congress amends the Act, those changes are reported in Martin on Social Security. They are reported as recent developments, but they are also referenced in the appropriate treatise sections, and all these references provide direct access to the full text of the relevant document. Updating is handled completely on line; there are no separate pocket parts or replacement pages.

The flexibility of LEXIS allows the material to be organized to meet the different needs of different researchers, ranging from a private attorney specializing in Social Security representation to the person needing guidance on eligibility and benefit amount to the judge confronting a particular Social Security issue.

All LEXIS references in Martin on Social Security are executable as written. They are references that have been written and tested by the author. Users can find appropriate authority without having to think of their own search terms. They need not remember or master all important LEXIS commands. To retrieve the authorities referenced by this treatise, all the user must do is transmit the LEXIS reference as presented in the treatise.

Martin on Social Security Law is located in the LEXIS Public Health and Welfare library. To use it, transmit "PUBHW" at the LEXIS library menu. Once in the Public Health and Welfare library the user simply transmits "TABLE" and the collection is opened.

LIBRARIES -- PAGE 1 of 2

NAME	PG	NAME	PG	NAME	PG	NAME	PG	NAME	PG
- - - - - - L E X I S - U S - - - - - - - - - - - - -
GENFED	1	CODES	1	LEGIS	1	STATES	1	ALR	6
ADMRTY	2	FEDCOM	2	MILTRY	3	CORP	2	LAWREV	6
BANKNG	2	FEDSEC	3	PATENT	3	EMPLOY	2	MARHUB	6
BKRTCY	2	FEDTAX	3	PUBCON	4	HEALTH	3	LEXREF	6
COPYRT	2	IMMIG	3	**PUBHW**	4	INSRLW	3	ABA	6
ENERGY	2	INTLAW	3	REALTY	4	STENV	4	BNA	6
ENVIRN	2	ITRADE	3	TRADE	4	STSEC	4	CCHSKY	6

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ESTATE  2 LABOR   3 TRDMRK  4 STTAX    4
FEDSEN  2 LEXPAT  4 TRANS   5 UCC      5
AC for AUTO-CITE
LXE (LEXSEE) to retrieve a case/document by cite
SHEP for SHEPARD'S    LXT (LEXSTAT) to retrieve a statute by
cite - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -
 NAME   PG DESCRIP                      NAME   PG DESCRIP
----- CASES --------------- --- P.MARTIN ON SOCIAL SECURITY LAW
Combined COURTS & SSRULE     TABLE   6 Table of SocSec Topics
Fed Pub Benefits & SocSec    SOCSEC  6 Martin SocSec Treatise
State Pub Benefits & SocSec  PMSSCA  7 Martin Selected Cases
Social Security Rulings      PMSSRL  7 Martin Selected Rulings

 --- U.S. CODE/CFR/FEDERAL REGISTER ---
 USCS    2 Titles 26,28,29,30,42,45
 PUBLAW  2 Public Laws
 USCODE  2 Combined USCS & PUBLAW
 ALLCDE  3 Selected State Codes
 CFR     3 Titles 20, 26, 29, 42, 45
 FEDREG  3 Federal Register
 ALLREG  3 Combined FEDREG & CFR
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P.W. Martin

Summary of Treatise Structure and Individual Document Segmentation
-- Tentative -- February 13, 1991

As my prior communications on treatise structure have indicated the work will have at least three layers, reflected in three volume numbers. Layer #1 (volume 1) consists of overview sections. It is the entry point for someone unfamiliar with the field or the place a user goes when they want to know how the topic of immediate interest to them fits into the overall program structure. Layer #2 of the treatise (volume 2) consists of topic summaries. This is the layer reflected in the table documents. For each topic in the table there will be a corresponding summary document in volume 2 of the treatise. Finally, layer #3 (volume 3) will furnish greater detail through what I am now calling subtopic clusters. Documents at each layer will reference related documents at the same level and the layers immediately above and below. Layer #1 documents will have no direct references to the law (statute, regulations, cases); the user will have to move on to layer #2 or #3 for them.

The division between the current TABLE documents and treatise I now envision is that the statute and regulations references currently in the TABLE documents will move to the topic summaries in the treatise. That will leave the table as a launching pad for topic searches run against the decisions or rulings and as an entry point into the treatise.

The documents below are set up with the following segments which I have begun with 3 to leave room for accession number and sequence number.
    SEG3: Title and copyright notice
    SEG4: Topic Category
    SEG5: Topic Subcategory
    SEG6: Heading
    SEG7: Topic Code
    SEG8: Document number of related TABLE document
    SEG9: Volume
    SEG10: Section (based on topic code in volume 2 for simplicity)
    SEG11: Text
    SEG12: Related Overviews (references to volume 1)
    SEG13: Related Topics (references to volume 2)
    SEG14: Related Subtopic clusters (references to volume 3)
    SEG15: Cited cases
    SEG16: Statute references
    SEG17: Regulation references
    SEG18: Cited Rulings
    SEG19: POMS references
    SEG20: Journal references
    SEG21: Other references

Obviously, not all documents will have all these segments. Three sample documents from volume 2 of the Treatise -- Topic Summaries

SEG3:Social Security Law - Copyright (c) 1991 by P.W. Martin
SEG4:General Issues
SEG5:Entitlement
SEG6:The Need to File an Application
SEG7:A100
SEG8:3
SEG9:2
SEG10:A100
SEG11:   Filing an application is a precondition to Social Security
benefit entitlement and also to recognition of a period of disability
which will later be considered in benefit calculations. There are
only two situations in which the Act does not require an application.
 One is where a person who is receiving one type of Social Security
benefits becomes eligible for another. A person who applied for
and was receiving disability insurance benefits need not, when he
or she reaches retirement age, apply again for old-age benefits;
a person receiving spouse benefits on the account of a retired worker
need not apply for widow or widower's benefits if that worker dies.
 A 1989 amendment to the Act provides a second exception when
misleading information received from the Social Security
Administration causes a person not to apply. A later application
by that person can be dated from the earlier contact.
SEG12:
Old-Age or Retirement Benefits - Entitlement => lxe 1 SOCSEC 161
Disability Benefits - Entitlement => lxe 1 SOCSEC 171
Benefits Based on Family Relationship - Entitlement - In General
=> lxe 1 SOCSEC 171
Steps in Presenting or Appealing a Benefit Claim - Application =>
lxe 1 SOCSEC 401
Procedure for Having Disability Recognized at a Time When Benefits
Are Not Being Sought => lxe 1 SOCSEC 193
SEG13:
Effect of Misleading Agency Information or Advice => lxe 2 SOCSEC
E100
Claim for a Period of Disability Earnings Record Freeze Apart from
Benefit Claim => lxe 2 SOCSEC N500
SEG14:
Timing of an Application => lxe 3 SOCSEC ....
The Nature of an Application => lxe 3 SOCSEC ....
Withdrawal of an Application => lxe 3 SOCSEC ....
Applying for a Period of Disability => lxe 3 SOCSEC ...
SEG15:
SEG16:
 => lxt 42 usc 402;.fo;filed application or failed date apply;.vk60
   (Subsections of 42 U.S.C. 402 Providing for Different Types of
Benefits
    as Well as Important 1989 Amendment, 42 U.S.C. 402(j)(5))
 => lxt 42 usc 423;.fo;file* w/6 application;.vk60
   (42 U.S.C. 423(a), 42 U.S.C. 423(b) (Application for Disability
Benefits))
SEG17:
 => .cf;cfr;part(g) and cite(20 cfr 404.6***)
SEG18:

```
 => lxe 1986 ssr lexis 2
 => lxe 1981 ssr lexis 3
 => lxe 1979 ssr lexis 10
SEG19:
 POMS GN 00204.001
SEG20:
SEG21:
```

SEG3:Social Security Law - Copyright (c) 1991 by P.W. Martin
SEG4:General Issues
SEG5:Entitlement
SEG6:Insured Status - In General
SEG7:A2*0
SEG8:4
SEG9:2
SEG10:A200
SEG11:   All Social Security benefits, whether old-age, disability,
or family benefits, require some person (either the claimant or the
relative on whom benefits depend) to have sufficient covered earnings
or self-employment income to qualify for "insured status".
Different benefits require different types of insured status, but
all require some type. All tests of insured status are expressed
in terms of quarters of coverage, requiring a certain number of such
quarters altogether or a certain number during a specified period
of time. The three principal insured status tests are: fully
insured, currently insured, and insured for disability benefits.
SEG12:
Basic Elements of Coverage - Covered Work and Insured Status => lxe
1 MARSOC 300
SEG13:
Insured Status - Fully Insured => lxe 2 SOCSEC A210
Insured Status - Currently Insured => lxe 2 SOCSEC A220
Special Insured Status Test for Disability Benefits - In General
=> lxe 2 SOCSEC Q100
Special Insured Status Test for Disability Benefits - Variant Applied
to Blind Claimants => lxe 2 SOCSEC Q110
SEG14:
SEG15:
SEG16:
   => lxt 42 usc 414
   (42 U.S.C. 414 (Insured Status for Purposes of OASI))
SEG17:
   => .cf;cfr;part(b) and cite(20 cfr w/1 (404.10** or 404.11**
      or 404.12**))
SEG18:
SEG19:
SEG20:
SEG21:

SEG3:Social Security Law - Copyright (c) 1991 by P.W. Martin
SEG4:General Issues
SEG5:Entitlement
SEG6:Insured Status - Fully Insured
SEG7:A210
SEG8:5
SEG9:2
SEG10:A210
SEG11:   Old-Age or retirement benefits and family benefits for survivors require "fully insured" status. (In addition, the insured status test for disability insurance benefits is derived from the "fully insured" concept.) The test for fully insured status contains a sliding scale requiring more quarters of coverage of successive cohorts of beneficiaries. The sliding scale stretches between a minimum of six quarters of coverage and a maximum of forty. No one, except those in a few special classes dealt with specifically by Congress, can qualify for fully insured status without having six quarters of coverage (the equivalent of a year and a half of covered work). And anyone with forty quarters of coverage (the equivalent of ten years of covered work) has such insured status. Whether someone with fewer than forty quarters meets the test depends on date of birth. For individuals reaching 62 in 1991 or thereafter, the full forty quarters is required.
SEG12:
Old-Age or Retirement Benefits - Entitlement => lxe 1 SOCSEC 161
Benefits Based on Family Relationship - Entitlement - In General => lxe 1 SOCSEC 171
Basic Elements of Coverage - Covered Work and Insured Status => lxe 1 SOCSEC 300
SEG13:
Insured Status - In General => lxe 2 SOCSEC A200
Insured Status - Currently Insured => lxe 2 SOCSEC A220
Special Insured Status Test for Disability Benefits - In General => lxe 2 SOCSEC Q100
Special Insured Status Test for Disability Benefits - Variant Applied to Blind Claimants => lxe 2 SOCSEC Q110
SEG14:
Fully Insured Status - Applying the Test - In General => 3 SOCSEC ....
Fully Insured Status - Applying the Test - To Those Who Die Before Attaining 62 => 3 SOCSEC ....
Fully Insured Status - Applying the Test - To Those Who Have a Period of Disability => 3 SOCSEC ....
SEG15:
SEG16:
   => lxt 42 usc 414;.fo;a fully insured individual;.fu
   (42 U.S.C. 414(a) (Fully Insured Individual))
SEG17:
   => .cf;cfr;part(b) and cite(20 cfr 404.11**)
SEG18:
SEG19:
SEG20:
SEG21:

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GENERAL ISSUES: ENTITLEMENT - THE NEED TO FILE AN APPLICATION
   Filing an application is a precondition to Social Security benefit entitlement
and also to recognition of a period of disability which will later be considered
in benefit calculations. There are only two situations in which the Act does not
require an application. One is where a person who is receiving one type of Social
Security benefits becomes eligible for another.
A person who applied for and was receiving disability insurance benefits need not,
when he or she reaches retirement age, apply again for old-age benefits;
a person receiving spouse benefits on the account of a retired worker need not apply
for widow or widower's benefits if that worker dies. A 1989 amendment to the Act
provides a second exception when misleading information received from the Social
Security Administration causes a person not to apply. A later application by that
person can be dated from the earlier contact.

    FOR REFERENCES TO: TRANSMIT   TRANSMIT
    TOPIC TABLE   => p*table   ACT AND REGULATIONS => p*act
    DOCUMENTS CITED ABOVE   => p*cited   RULINGS AND POMS   => p*rulings
    OTHER TREATISE SECTIONS   => p*treatise   OTHER SOURCES   => p*other

[*table]   ================= TABLE OF TOPICS REFERENCES =====================
   For topic code and additional search terms for use in retrieving relevant decisions
      TRANSMIT => cf;table;3
[*treatise]   ================= TREATISE REFERENCES =========================
         RELEVANT OVERVIEWS (Volume 1)   TRANSMIT
Old-Age or Retirement Benefits - Entitlement   => lxe 1 SOCSEC 161
Disability Benefits - Entitlement   => lxe 1 SOCSEC 171
Benefits Based on Family Relationship -
   Entitlement - In General   => lxe 1 SOCSEC 171
Steps in Presenting or Appealing a Benefit Claim -
   Application   => lxe 1 SOCSEC 401
Procedure for Having Disability Recognized at a
   Time When Benefits Are Not Being Sought   => lxe 1 SOCSEC 193
           RELEVANT TOPIC SUMMARIES (Volume 2)
Effect of Misleading Agency Information or Advice   => lxe 2 SOCSEC E100
Claim for a Period of Disability Earnings
Record Freeze Apart from Benefit Claim   => lxe 2 SOCSEC N500
           RELEVANT SUBTOPICS (Volume 3)
Timing of an Application   => lxe 3 SOCSEC ....
The Nature of an Application   => lxe 3 SOCSEC ....
Withdrawal of an Application   => lxe 3 SOCSEC ....
Applying for a Period of Disability   => lxe 3 SOCSEC ...
[*act]   =========== REFERENCES TO ACT AND REGULATIONS ======================
        STATUTORY REFERENCES
TRANSMIT
 => lxt 42 usc 402;.fo;filed application or failed date apply;.vk60
    (Subsections of 42 U.S.C. 402 Providing for Different Types of Benefits
     as Well as Important 1989 Amendment, 42 U.S.C. 402(j)(5))
 => lxt 42 usc 423;.fo;file* w/6 application;.vk60
    (42 U.S.C. 423(a), 42 U.S.C. 423(b) (Application for Disability Benefits))

        REGULATIONS
TRANSMIT

```
 =>  .cf;cfr;part(g) and cite(20 cfr 404.6***)
[*rulings]    ======== REFERENCES TO RULINGS AND POMS =======================
        SOCIAL SECURITY RULINGS

TRANSMIT
 => lxe 1986 ssr lexis 2
 => lxe 1981 ssr lexis 3
 => lxe 1979 ssr lexis 10


        POMS
 POMS GN 00204.001
[*other]    ================= OTHER REFERENCES =============================
```

```
3 SOCSEC 161A1  - 3 P. Martin, Social Security Law @ 161A1 (June 1, 1991)
============================Copyright (c) 1991================================
OLD-AGE OR RETIREMENT BENEFITS - ENTITLEMENT - AGE
     An individual must be at least 62 years old to be entitled to Old-Age Insurance
Benefits.
-----------------------------------------------------------------------------
3 SOCSEC 161A2 - 3 P. Martin, Social Security Law @ 161A2 (June 1, 1991)
============================Copyright (c) 1991================================
OLD-AGE OR RETIREMENT BENEFITS - ENTITLEMENT - INSURED STATES
     An individual must have enough earnings covered by Social Security to be "fully
insured" in order to be entitled to Old-Age Insurance Benefits.
-----------------------------------------------------------------------------
3 SOCSEC 161A3 - 3 P. Martin, Social Security Law @ 161A3 (June 1, 1991)
============================Copyright (c) 1991================================
OLD-AGE OR RETIREMENT BENEFITS - ENTITLEMENT - APPLICATION
     Unless the individual was entitled to Disability Insurance benefits in the
month immediately prior to reaching the Social Security retirement age, he or she
must file an application for Old-Age Insurance benefits to be entitled to such
benefits.
-----------------------------------------------------------------------------
3 SOCSEC 161A4 - 3 P. Martin, Social Security Law @ 161A4 (June 1, 1991)
============================Copyright (c) 1991================================
OLD-AGE OR RETIREMENT BENEFITS - ENTITLEMENT - CONVERSION OF DISABILITY INSURANCE
BENEFITS UPON REACHING SOCIAL SECURITY'S "NORMAL" RETIREMENT AGE
     An individual entitled to Disability Insurance benefits in the month
immediately prior to reaching the Social Security retirement age need not file an
application for Old-Age Insurance benefits to be entitled to such benefits.  Upon
reaching the "normal" Social Security retirement age, the Disability Insurance
benefits automatically convert to Old-Age Insurance benefits.
-----------------------------------------------------------------------------
3 SOCSEC 162A1 - 3 P. Martin, Social Security Law @ 162A1 (June 1, 1991)
============================Copyright (c) 1991================================
OLD-AGE OR RETIREMENT BENEFITS - AMOUNT - BASE AMOUNT
     Subject to adjustments based on the age at which Old-Age Insurance benefits
are begun (if that age is before or after the "normal" Social Security retirement
age) and subject to adjustments based on the continuing receipt of earnings, an
individual's Old-Age Insurance benefit are equal to the individual's "primary
insurance amount".
-----------------------------------------------------------------------------
3 SOCSEC 162B1 - 3 P. Martin, Social Security Law @ 162B1 (June 1, 1991)
============================Copyright (c) 1991================================
OLD-AGE OR RETIREMENT BENEFITS - WHEN BENEFITS BEGIN
     Old-Age Insurance benefits begin with the month in which the individual applies
if the individual has previously (in some some prior month) met the other requirements
for entitlement (age 62 and "fully insured" status).  If the individual applies
before turning 62, entitlement begins with the first month thereafter through which
the individual has met the other requirements for entitlement (age 62 and "fully
insured" status).
-----------------------------------------------------------------------------
```

1 SOCSEC 100 - 1 P. Martin, Social Security Law @ 100 (June 1, 1991)
=============================Copyright (c) 1991=================================
SCOPE OF TREATISE AND DATABASE - IN GENERAL
     This treatise and accompanying files cover issues of entitlement and benefit
calculation arising out of the set of programs popularly referred to as Social Security.
 These programs touch the lives of well over 90 percent of all individuals living or
working in the United States and provide critical income to those who have retired or
ceased working due to severe physical or mental disability. They also provide income
to the other members of a worker's family when the worker has retired, become disabled,
or died. The law directing these payments and setting their amount is complicated.
Questions about its proper application are raised in thousands of administrative hearings
and federal court proceedings each year. This collection of materials is assembled to
assist those who must resolve questions of Social Security law as judges, those who
represent individuals and families seeking Social Security benefits, and individuals,
family members, and organizations seeking a clearer understanding of the law that directs
the expenditure of the largest sums coming out of the Federal Government's Treasury.
Since these benefits are so important to individuals at critical points in their lives,
understanding when they are available and how much they will be is vital information
for planning and deciding about other forms of savings or insurance.
----
1 SOCSEC 101 - 1 P. Martin, Social Security Law @ 101 (June 1, 1991)
=============================Copyright (c) 1991=================================
THE PROGRAMS COVERED - OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (OASDI), COGNATE
PORTIONS OF SUPPLEMENTAL SECURITY INCOME (SSI)
     Although the Social Security Act of 1935 established a wide range of income support
programs and many additional programs have since been added to the Social Security Act,
the phrase "Social Security" is used throughout this treatise to refer more narrowly
to the programs found in Title II of that act. These include retirement or old-age
benefits, survivors benefits, and disability benefits, Old-Age Survivors and Disability
Insurance. This treatise and accompanying files also cover questions of entitlement
because of disability under Title XVI, the Supplement Security Income program (SSI),
because with those questions the governing law is identical or nearly identical to that
in Title II.
----
1 SOCSEC 102 - 1 P. Martin, Social Security Law @ 102 (June 1, 1991)
=============================Copyright (c) 1991=================================
PROGRAMS NOT COVERED ALTHOUGH CLOSELY AFFILIATED WITH SOCIAL SECURITY - BLACK LUNG,
MEDICARE, SSI (IN GENERAL), AFDC, PRIVATE PENSIONS
     For many individuals and families, Social Security benefits overlap with or interact
with other important benefits. This relationship is, in most cases, reflected in
provisions of statute or regulation that regulate the interaction from both sides.
Although these related benefits and their interaction with Social Security can have a
major impact on the Social Security claimant, this treatise and accompanying files do
not provide detailed treatment of Black Lung benefits, Medicare, SSI (other than those
provisions of SSI that concern entitlement because of disability), private pensions,
or the many other forms of income support that resemble Social Security in some respects.
 They do include summary treatment of the relationship between Social Security and the
more important overlapping benefits with references to legal materials lying outside
this collection.
----

1 SOCSEC 103 - 1 P. Martin, Social Security Law @ 103 (June 1, 1991)
============================Copyright (c) 1991=================================
THE ISSUES COVERED - ENTITLEMENT, AMOUNT, PROCEDURE, PROOF OR EVIDENCE, ISSUES
REPRESENTATION, PLANNING IN RELATION TO BENEFITS
     For the programs covered, this treatise and accompanying files cover all issues
bearing on entitlement, those elements an individual must establish in order to secure
benefits in the first place or keep benefits once started. Depending on the benefits
involved the questions can range from the generally straightforward issue of establishing
the claimant's age, through the more frequently troublesome question of valid marital
relationship, to the nearly always difficult complex of issues surrounding a disability
determination. This treatise and files cover the law of Social Security benefit
calculation, including the effect on monthly payments of continuing payments and benefit
claims by other family members. They deal with the administrative and judicial procedures
that govern appeals from unfavorable agency determinations, rules of proof or evidence,
as well as the rules concerning representation of individuals by attorneys or others,
including the provisions controlling attorneys fees. Finally, they focus on areas where
the contours of Social Security law may affect private planning, for retirement or
continued part-time work, for remarriage.
----
1 SOCSEC 104 - 1 P. Martin, Social Security Law @ 104 (June 1, 1991)
============================Copyright (c) 1991=================================
RELATED TAX ISSUES NOT ADDRESSED
     Social Security benefits are financed by special taxes. Those taxes paid by
employees, employers, and self-employed individuals are set out in a separate set of
statutory provisions, found, today, with the other provisions of the Internal Revenue
Code. In many respects they track the benefit provisions of the Social Security Act
in perfect parallel. The definitions of employment, wages, self-employment income that
operate in the benefit context are nearly identical to those that determine the incidence
of the F.I.C.A. (Federal Insurance Contributions Act) or S.E.C.A. (Self-Employment
Contributions Act) tax. Consequently, there are times when decisions about a tax question
furnish useful authority on a benefit issue. On the other hand, the settings are so
different, involving different public agencies and private attorneys, that the practical
overlap is slight. This treatise and accompanying files are limited to the benefit side
of Social Security, with reference to tax provisions only as they are important authority
on benefit questions.
----
1 SOCSEC 150 - 1 P. Martin, Social Security Law @ 150 (June 1, 1991)
============================Copyright (c) 1991=================================
THE DIFFERENT TYPES OF SOCIAL SECURITY BENEFITS - IN GENERAL
     When first enacted, in 1935, the Social Security program was almost exclusively
an old-age or retirement benefit program. It provided for monthly benefits to covered
workers who had reached the age of eligibility and had retired. Since 1939 the program
has added two different types of benefits. It now includes benefits for covered workers
who become severely disabled, long before they reach retirement age. It also includes
benefits for others, related to the worker, in the event of the worker's retirement,
disability, or death.
----

1 SOCSEC 151 - 1 P. Martin, Social Security Law @ 151 (June 1, 1991)
===========================Copyright (c) 1991=================================
THE DIFFERENT TYPES OF SOCIAL SECURITY BENEFITS - BENEFITS CATEGORIZED ACCORDING TO THE
CLAIMANT'S RELATIONSHIP TO THE WORKER
      The Social Security program provides two type of benefits for the worker whose
earnings have established entitlement -- disability benefits, available to covered workers
who become severely disabled, and old-age or retirement benefits, available to workers
after reaching the age of 62.   These benefits received directly by the worker are sometimes
called primary Social Security benefits. In addition to these two types of primary
benefits, the Social Security program provides for secondary or derivative benefits.
These are benefits that are paid to children, spouses, former spouses, and parents of
a worker under certain circumstances.
----
1 SOCSEC 152 - 1 P. Martin, Social Security Law @ 152 (June 1, 1991)
===========================Copyright (c) 1991=================================
THE DIFFERENT TYPES OF SOCIAL SECURITY BENEFITS - BENEFITS CATEGORIZED ACCORDING TO THE
WORKER'S SITUATION
      Three different events in the worker's life can trigger Social Security
benefits -- retirement, disability, and death. Benefits are available to the worker
and certain family members once the worker has attained 62 and meets the program's
definition of retirement. Benefits are available to the worker and certain family members
if the worker becomes severely disabled. And finally, benefits are availble to certain
surviving family members in the event of the worker's death.
----
1 SOCSEC 160 - 1 P. Martin, Social Security Law @ 160 (June 1, 1991)
===========================Copyright (c) 1991=================================
OLD-AGE OR RETIREMENT BENEFITS - IN GENERAL
      Monthly retirement benefits are available to workers covered by Social Security
upon reaching age 62.   The amount of the monthly benefit depends upon the worker's earnings
history, upon the age at which the worker began receiving the monthly benefit, and upon
the level of the worker's continuing earned income.
----
1 SOCSEC 161 - 1 P. Martin, Social Security Law @ 161 (June 1, 1991)
===========================Copyright (c) 1991=================================
OLD-AGE OR RETIREMENT BENEFITS - ENTITLEMENT
      To receive monthly old-age insurance benefits, a person must have sufficient past
work covered by Social Security to have the necessary insured status. The person must
be 62 or older and, prior to age 70, must not have a high level of continuing earnings.
 Unless the person is already receiving Social Security benefits of some other kind old-age
benefits await the worker's decision to file an application.
----
1 SOCSEC 162 - 1 P. Martin, Social Security Law @ 162 (June 1, 1991)
===========================Copyright (c) 1991=================================
OLD-AGE OR RETIREMENT BENEFITS - AMOUNT
      The monthly old-age or retirement benefit is pegged to a "normal retirement age"
set out in the Social Security Act. Those who start benefits at that age get their full
"primary insurance amount," an amount that is based on their earnings history. Those
who start benefits prior the that normal retirement age receive a smaller monthly sum;
those who start benefits later, a large one. Prior to age 70, benefits are also affected
by the worker's continued receipt of earned income. Those seeking benefits while they
continue to earn may have their monthly benefit reduced or even eliminated because of
those earnings.

A100. THE NEED TO FILE AN APPLICATION

   Filing an application is a precondition to Social Security benefit entitlement
and also to recognition of a period of disability which will later be considered
in benefit calculations. There are only two situations in which the Act does not
require an application. One is where a person who is receiving one type of Social
Security benefits becomes eligible for another.
A person who applied for and was receiving disability insurance benefits need not,
when he or she reaches retirement age, apply again for old-age benefits;
a person receiving spouse benefits on the account of a retired worker need not apply
for widow or widower's benefits if that worker dies. A 1989 amendment
to the Act provides a second exception when misleading information received from
the Social Security Administration causes a person not to apply. A later application
by that person can be dated from the earlier contact.

REFERENCES: TRANSMIT   TRANSMIT
  CASES   => p*cases   OTHER TREATISE SECTIONS => p*treatise
  ACT AND REGULATIONS   => p*act   OTHER SOURCES   => p*other
  RULINGS AND POMS   => p*rulings

[*cases]   ========================= CASES =================================
                              TRANSMIT
For all cases on the topic => .cf;PMSSCA;TOPCI(A100) and appli!

[*act]   ========== REFERENCES TO ACT AND REGULATIONS =====================

        STATUTORY PROVISIONS
 TRANSMIT
 => lxt 42 usc 402;.fo;filed application or failed date apply;.vk60
    (Subsections of 42 U.S.C. 402 Providing for Different Types of Benefits
     as Well as Important 1989 Amendment, 42 U.S.C. 402(j)(5))
 => lxt 42 usc 423;.fo;file* w/6 application;.vk60
    (42 U.S.C. 423(a), 42 U.S.C. 423(b) (Application for Disability Benefits))

        REGULATIONS
 TRANSMIT
 => .cf;cfr;part(g) and cite(20 cfr 404.6***)

[*rulings]   ======= REFERENCES TO RULINGS AND POMS ========================
        SOCIAL SECURITY RULINGS
 TRANSMIT
 => lxe 1986 ssr lexis 2
 => lxe 1981 ssr lexis 3
 => lxe 1979 ssr lexis 10

        POMS
 POMS GN 00204.001

```
[*treatise]   ============== TREATISE REFERENCES ==========================
         RELEVANT OVERVIEWS (Volume 1)               TRANSMIT
Old-Age or Retirement Benefits - Entitlement         => lxe 1 SOCSEC 161
Disability Benefits - Entitlement                    => lxe 1 SOCSEC 171
Benefits Based on Family Relationship -
  Entitlement - In General                           => lxe 1 SOCSEC 171
Steps in Presenting or Appealing a Benefit Claim -
  Application                                        => lxe 1 SOCSEC 401
Procedure for Having Disability Recognized at a
  Time When Benefits Are Not Being Sought            => lxe 1 SOCSEC 193
         RELEVANT TOPIC SUMMARIES (Volume 2)
Effect of Misleading Agency Information or Advice     => lxe 2 SOCSEC E100
Claim for a Period of Disability Earnings
  Record Freeze Apart from Benefit Claim             => lxe 2 SOCSEC N500
         RELEVANT SUBTOPICS (Volume 3)
Timing of an Application                             => lxe 3 SOCSEC ....
The Nature of an Application                         => lxe 3 SOCSEC ....
Withdrawal of an Application                         => lxe 3 SOCSEC ....
Applying for a Period of Disability                 => lxe 3 SOCSEC ...

[*other]    ================= OTHER REFERENCES =============================
```

To be able to browse preceding or succeeding sections, transmit B. The first
page of the document you are currently viewing will be displayed in FULL.

[*text]   ===
          2 P. Martin, Social Security Law @ A100 (June 1, 1991)

               A100. THE NEED TO FILE AN APPLICATION

   Filing an application is a precondition to Social Security benefit entitlement
and also to recognition of a period of disability which will later be considered
in benefit calculations. There are only two situations in which the Act does not
require an application. One is where a person who is receiving one type of Social
Security benefits becomes eligible for another.
A person who applied for and was receiving disability insurance benefits need not,
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for widow or widower's benefits if that worker dies. A 1989 amendment
to the Act provides a second exception when misleading information received from
the Social Security Administration causes a person not to apply. A later application
by that person can be dated from the earlier contact.

[*cases]   ======================== CASES ==================================
                            TRANSMIT
For all cases on the topic   => .cf;PMSSCA;TOPCI(A100) and appli!

[*act]   ========== REFERENCES TO ACT AND REGULATIONS =====================

        STATUTORY PROVISIONS
 TRANSMIT
 => lxt 42 usc 402;.fo;filed application or failed date apply;.vk60
    (Subsections of 42 U.S.C. 402 Providing for Different Types of Benefits
     as Well as Important 1989 Amendment, 42 U.S.C. 402(j)(5))
 => lxt 42 usc 423;.fo;file* w/6 application;.vk60
    (42 U.S.C. 423(a), 42 U.S.C. 423(b) (Application for Disability Benefits))

        REGULATIONS
 TRANSMIT
 => .cf;cfr;part(g) and cite(20 cfr 404.6***)

[*rulings]   ======== REFERENCES TO RULINGS AND POMS ========================
        SOCIAL SECURITY RULINGS
 TRANSMIT
 => lxe 1986 ssr lexis 2
 => lxe 1981 ssr lexis 3
 => lxe 1979 ssr lexis 10

        POMS
 POMS GN 00204.001

[*treatise]   =============== TREATISE REFERENCES ==========================
        RELEVANT OVERVIEWS (Volume 1)   TRANSMIT

[*other]   ================ OTHER REFERENCES ==============================

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NAME   PG

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SPORTS 13
                                    GUIDE 12 CMPGN 14
TRAN   14
                                              EXEC   14
    AC for AUTO-CITE   LXE (LEXSEE) to retrieve a case/document by
cite
    SHEP for SHEPARD'S   LXT (LEXSTAT) to retrieve a statute by cite
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Please TRANSMIT the NAME of the file you want to search. To see a
description
of a file, type its page number and press the TRANSMIT key.
            FILES - PAGE 1 of 2 (NEXT PAGE for additional files)
 NAME   PG DESCRIP   NAME   PG DESCRIP

--------------- CASES --------------- --- P.MARTIN ON SOCIAL SECURITY
LAW --
 CASES   1 Combined COURTS & SSRULE   TABLE   6 Table of SocSec Topics
 COURTS 1 Fed Pub Benefits & SocSec   SOCSEC 6 Martin SocSec Treatise
 OMNI   1 State Pub Benefits & SocSec PMSSCA 7 Martin Selected Cases
 SSRULE 1 Social Security Rulings   PMSSRL 7 Martin Selected
Rulings

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    --- U.S. CODE/CFR/FEDERAL REGISTER ---   --------------- BNA -----------
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 USCS    2 Titles 26,28,29,30,42,45
 PUBLAW  2 Public Laws                       BENDAY  4 Benefits Today
 USCODE  2 Combined USCS & PUBLAW            PENSN   4 BNA Pension Report
 ALLCDE  3 Selected State Codes              BNAPEN  4 BNA Pens & Benefits
Daily
 CFR     3 Titles 20, 26, 29, 42, 45         TMCPJ   4 Tax Mgmt Comp Plan Jnl
 FEDREG  3 Federal Register                  TMCPP   4 Tax Mgmt Comp Plan
Port
 ALLREG  3 Combined FEDREG & CFR
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Press NEXT PAGE or .np for PUBLICATIONS, HEALTH, INSURANCE, and LAW
REVIEW Files
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P.Martin
6/14/91
FACT SHEET

MARTIN ON SOCIAL SECURITY LAW

Martin on Social Security Law is the only Social Security research tool with a fully integrated set of references, issue by issue, to the Act, Regulations, cases, rulings, POMS, A.L.R. Annotations, and journal articles.

Through LEXIS these references provide immediate access to the full text of the all cited documents (with the exception of the POMS and those journal articles not on LEXIS). The treatise is thus not just a reference. It organizes and gives access to a full specialized library.

Not only is the referenced library of materials comprehensive, it is up-to-date. As the Department of Health and Human Services issues new regulations or promulgates annual revisions in the benefit formula in the Federal Register and Congress amends the Act, those changes are reported in Martin on Social Security. They are reported as recent developments, but they are also referenced in the appropriate treatise sections, and all these references provide direct access to the full text of the relevant document. Updating is handled completely on line; there are no separate pocket parts or replace pages.

The flexibility of LEXIS allows the material to be organized to meet the different needs of different researchers, ranging from a private attorney specializing in Social Security representation to the person needing guidance on eligibility and benefit amount to the judge confronting a particular Social Security issue.

All LEXIS references in Martin on Social Security are executable as written. They are references that have been written and tested by the author. Users can find appropriate authority without having to think of their own search terms. They need not remember or master all important LEXIS commands. To retrieve the authorities referenced by this treatise, all the user must do is transmit the LEXIS reference as presented in the treatise.

The author of this treatise and creator of the full collection of supporting materials is Peter W. Martin, former dean and now the Edward Cornell Professor of Law at the Cornell Law School. Professor Martin has taught and written about Social Security Law for over 20 years. He is the author of journal articles on important Social Security topics and an expert on computer-based legal information systems.

FACT SHEET

SOCIAL SECURITY LAW AND SOCIAL SECURITY LAW MATERIALS

     While Social Security law does not involve high stakes per case
(except in terms of importance to the individual claimant) measured
in terms of caseload, both administrative and judicial and overall
financial impact, it has enormous importance and figures in the work
of many lawyers and judges.

I. Overall Magnitude of Program and Awards

     During 1990 Social Security benefit payments totalled $247.8
billion. Benefits were awarded to 3.7 million persons. The largest
portion (45%) were retired workers. Over a tenth (13%) were disabled
workers. The balance (42%) were family members, receiving benefits
as survivors or dependents, in some cases also on the basis of
disability.

II. Individual Amounts

     The average monthly benefit amount for a person newly awarded
benefits as a retired worker in January 1991 was $591, compared with
$597 for newly entitled disabled workers.

     Benefits amounts, of course, range above and below these
averages. A hypothetical individual who earned an amount equal to
the average earnings in covered employment through a working career
who upon claiming benefits at age 65 in January 1991 have received
a monthly benefit in the neighborhood of $760, one who had earnings
at or above the maximum amount subject to Social Security taxes $930,
and a steady worker at low wages (45% of the national average) $460.

III. Volume of Claims and Appeals

     The bulk of disputed Social Security claims, both administrative
appeals and appeals to U.S. District Court involve disability
benefits (Social Security Disability Insurance and Supplemental
Security Income Disability). In recent years there have been over
a million and a half initial determinations involving disability
per year, more than 250,000 Administrative Law Judge (A.L.J.)
dispositions, and approximately 8,000 Federal District Court
decisions. The claimant success rate at each stage of appeal is
significant. (Better than half the ALJ hearings result in a ruling
favorable to the claimant.) A significant percentage of the appeals
at the ALJ level involve representation by lawyers. Virtually all
the appeals to Federal District Court and beyond, to the U.S. Court
of Appeals, involve attorneys. The cadre of Administrative Law
Judges that hear these appeals constitute the lion's share of the
ALJs employed by the Federal Government. Social Security cases
represent a major portion of the civil cases filed in Federal District

Court.

IV. Lawyers Fees

Few of the attorneys that represent Social Security claimants work in large firms. (Although for large firms that do "pro bono" work this is an attractive field.) Lawyers who do this work for a fee do it on contingent fee basis (roughly 25% of recovered benefits). (With growing delays in the administrative process and amendments to the fee provisions of the Act these fees are increasing.) Publicly and charitably funded legal services offices also do Social Security representation. In neither setting can such costs as LEXIS be passed through as a charge to a client.

V. The Competing Social Security Law Reference Materials

The most serious competition for Martin on Social Security Law is the West Social Security Reporting Services. It has existed in print since the early 80's and was put on line with Westlaw last fall. It is established and aggressively promoted in both public and private sectors. Its weaknesses (critical ones) are that it lacks an integrating treatise and is shaped by the West key number categories. West does have both a treatise (McCormick) and a practice guide (Hall) but they, particularly the former, are weak and they are not linked analytically to the service. Since the service is compiled using West's Social Security key numbers it brings a lot of extra baggage with the title II cases and rulings -- Medicare, Medicaid, and all of SSI. Furthermore, it leaves out the important attorneys fee cases based on the Equal Access to Justice Act. In other words it is not shaped to the needs of the lawyer practicing in this field.

CCH has a service (the Unemployment Insurance Reporter) and Matthew Bender has it Social Security Practice Guide. My information about the treatises (McCormick, Hall, and Matthew Bender) puts them all in the 4,000 - 6,000 copy range. I have no information on the West service other than that it has displaced the CCH publication in the Office of Hearings and Appeals of the Social Security Administration.

June 26, 1991

Ms. Kathryn Downing
President & COO
Thomson Electronic Publishing
655 Washington Boulevard
Stamford, Conn. 06901-3793

Dear Kathryn:

Early this month volumes 1 and 2 of my Social Security treatise
were "published" on LEXIS. It will grow some both in features and
content, but what is up now is complete and functioning as it should.

If this book were in print, I would send you one of my author's
copies inscribed with sincere thanks for your support (in your former
capacity) at the critical juncture in early 1990 when it appeared
the work might be jettisoned along with MDC's CD-ROM initiative.
Since I have no copy to send, I must simply say "thank you" and invite
you to have a look. (Use the Windows Session Manager, select the
PUBHW library and at that point either choose the TABLE file or "LEXSEE
1 SOCSEC 1" or "LEXSEE 1 SOCSEC 2." I enclose a copy of the user's
guide that appears in the TABLE file as document 4.)

I do hope that you and your colleagues at Thomson will have
a chance to look at how the treatise deals with two L.C.P. items
in LEXIS, U.S.C.S. and the A.L.R. annotations. A major problem with
U.S.C.S. in the online environment is that it cannot be referenced
easily below the section level (e.g., subsections). Most of the
statute references in the treatise sections take the user directly
to the relevant subsection using a LEXIS script that is unsightly
but effective. You should also note that the treatise references
all A.L.R. annotations in the Social Security field with executable
LEXSEE citations.

This summer I have begun modeling the work for CD-ROM, building
prototypes with both Guide and Folio. I continue to contemplate
publication of a CD-ROM based version that would not be a full
duplicate of but a complement to the online collection. If MDC were
comfortable with the arrangement would Thomson be a possible
publisher? If there is the slightest possibility I would like to
explore the proposition with you. As we discussed last year I would
like to license the portions of U.S.C.S. involved, including the
L.C.P. editorial matter, for this CD-ROM version and will need to
discuss the terms of that license sometime this fall.

In any event I would be grateful for any reaction you or others
at Thomson have to the online treatise both as it is and as it

approximates the ultimate CD-ROM product.

                            Sincerely,

                            Peter W. Martin

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Administration.

Meetings with Michie and Thomson -- Dec. 1991

I. Brief Chronology --

    Project that was headed for CD-ROM with online update. CD-ROM
platform was to be a combination of Owl's Guide with a full text
search and retrieval engine -- FULCRUM or the equivalent.

    Dec - Jan -- 1989-90 series of decisions at MDC that undid that
plan.

    Meetings with Michie and MDC folks in February 1990 led to
decision to shift the initial publication to LEXIS. The issue matrix
with links to coded cases, statute and regulations was released
November 1, 1990. The treatise was released June 1, 1991.

II. Contractual situation --

    An amendment to the Martin-MDC contract agreed to by both parties
adjusts the original contract to the present reality which is that
MDC is not doing CD-ROM publishing. The amended agreement gives
MDC a non-exclusive license to Martin on Social Security with a
five-year term. This amendment leaves me free to publish the work
on CD-ROM and other forms with other parties.

III. The Work Is Platform-Independent

    Even before the shift in plans from initial CD-ROM to on-line
publication, I was preparing the work and planning to maintain the
work apart from its distribution platform. The versions of the
statute and regulations I shall show you in folio were built by my
assistants using a generic markup code in the summer and fall of
1988; the treatise has consistently been assembled and maintained
in a Notebook II database.

    That means that the work as implement in LEXIS is an
implementation of a architecture that is apart from LEXIS. Indeed,
the LEXIS implementation while elegant for the online world is clunky
when compared to what is possible with software like Folio's Views.
 That also means that generating a CD-ROM version will represent
relatively little manual tinkering -- especially with material I
have written. My treatise is the first material that MDC has received
ready-to-load from a data source. In fact, MDC's operation is less
automated than mine. My updates of topic codes for cases are
submitted in a report format designed to allow automated insertion
in the appropriate segment of an identified document, a report
generated from the database in which I enter and store that
information. To date, MDC's system has consisted of printing out
those reports and having manual entry. The LEXIS implementation
utilizes only a small fraction of the data I have in varying stages

of readiness; for all my investment in organizing the statute and regulations and most of my investment in organizing case data proved of no value in the on-line environment.

I am and am continuing to build and maintain this work in a different and highly flexible set of data structures.

IV. The On-Line Work as a Representation of What I Envision for CD-ROM

Reference to NCAIR Conference Paper

The distinguishing features of the electronic treatise --

The importance of the quality and coherence of its organizing matrix because of the large amount of information that matrix structures

The quality and richness of its linking is in a significant sense more important than its text describing the underlying primary material (that primary material is a click away -- through a precision move)

The types of electronic footnotes, the other important moves (exploding detail, reference move, search that is modifiable)

V. The CD-ROM

Content
        Treatise, statute, regulations, key cases, citations to all coded cases, key rulings, citations to all rulings

Functionality
        See NCAIR conference sheet -- better on screen and print output than on-line
Relationship to On-Line Version
        Same architecture -- i.e., same section number, same issue codes -- references to one version will be executable in another
        Desirable that on-line furnish an update table that knows what is on the disk -- but this should be done only if MDC will agree to an attractive price bundle. [The current on-line structure includes a file (TABLE FILE) to which only connect-time charges apply. That with LEXSEE and LEXSTAT charges should be one update option.]

VI. Timetable

End of summer 1992 -- But I have no sense of production, business plan elements on the publisher plan.

VII. Software Platform

My tentative conclusion is initial distribution in FOLIO,

followed by a GUIDE if FOLIO does not develop a WINDOWS version in a timely fashion.

VIII. Potential Division of Labor Between Martin and Publisher\

Labor I am looking to have performed by publisher: Final data prep, quality control, production, marketing, sales, distribution, support

Labor I would be interested in having publisher undertake: Data formatting and linking (statute, regulations, cases, rulings) using agreed-upon design specifications [But I want co-ownership of the data, thus prepared -- non-exclusive rights]

IX. Compensation

25% reflecting unique nature of enterprise

Expenses of any marketing activity I engage in covered

X. My Criteria

Reference to Market Fact Sheet

Beyond satisfactory arrangements on the above points -- I shall be heavily influenced by the following:

The publisher's CD-ROM plans -- I am painfully conscious that I have the only treatise MDC has published or is likely to publish in the near term -- painfully conscious because they have neither habits nor plans that generate effective marketing

The publisher's national coverage -- Social Security is a national program -- in one sense it is a large market spread thin across the U.S.

The publisher's effectiveness in selling to federal and state government agencies, the federal judiciary (including federal magistrates)

The publisher's effectiveness in selling information products or services outside traditional law markets (public libraries, corporate personnel offices, senior citizens centers)

XI. Attractions of a CD-ROM product, vis-a-vis the on-line version

* lump-sum price (need info on current pricing)

* better software

* substantial value-added in presentation of primary materials

-- statute, regulations, cases, rulings (should not look like or function like the on-line versions but dramatically better -- e.g., precision of reference move, exploding detail approach to all document types, decent treatment of footnotes both on screen and in print)

 * user annotation, etc.

 * opportunity to break out of LEXIS/NEXIS user communities -- aided by user-friendly authored material

 * great data quality (problem of being an on-line anomaly)

 * greater stability -- as changes occur in the on-line environment they happen without consideration of their effect on my work and generally without notice to me (LEXSTAT to regs, improvement in Focus, statutory amendments)

 * friendly, cost-effective front-end to on-line collection (DDE)

XII. Principal Challenge(s)

 Updating a collection in a field that sees 12-15 new cases a week and several important new regulations per year.

 Options: Fax newsletter update
     Update floppies (biweekly)
     Replacement CD
     On-line update table

December 11, 1991

Mr. Andrew H. Wyszkowski
The Michie Company
1 Town Hall Square
P.O. Box 7587
Charlottesville, VA 22906-7587

Dear Andy:

Thanks again for your time. Reflecting on yesterday's meeting I have concluded I might assist your deliberations with further information on two points.

First, I may have seemed too glib on the issue of licensing LEXIS versions of cases for inclusion on the CD-ROM. My comfort on the point rests on the base agreement I have with MDC, dated October 28th, 1988, which provides that while I will write the treatise for electronic publication MDC will furnish me public domain material from LEXIS without charge through online connection and through direct provision on "magnetic media containing up to 4,000 cases selected by [me], and other agreed upon public domain material." Because of concern about the West litigation then still in progress it also provides "MDC's determination of what material and cases are in the public domain shall be binding upon Martin." All the public domain material I would deliver for a disk came to me under that provision. The provision does not commit MDC to furnish a fresh (rekeyed) set of that material, but the work plan for the MDC CD-ROM developed by Baker, Guiant, and Martin in 1989 had the case material for the disk being drawn from current LEXIS versions rather than those which had been furnished me under the contract. In other words, the production scheme we discussed yesterday is totally consist with the Martin-MDC agreement both as signed and as implemented through subsequent working arrangements.

Second, I am not sure I conveyed adequately the degree of favorable response the on-line treatise has received from Social Security practitioners who have seen it. Attached is a letter I

1

found waiting for me this morning that furnishes concrete testimony on that score (and on the interest in CD-ROM). Needless to say, I have agreed to participate.

I conclude on a slightly awkward note. Last May when Jim invited me to bring my stuff back to Charlottesville some time this fall, it seemed clear from context and past practice the invitation was to come at Michie expense. When I picked up the conversation with you I did so fully aware that your budget for such explorations might be quite different from Jim's and therefore came prepared to cover the costs out of my own funds. I throw this ball in your court with no spin. If you have funds to cover a visit like mine I will submit expenses. If you had not contemplated that, I shall view them as a charge, if you will, against future royalties.

Sincerely,

Peter W. Martin
Edward Cornell Professor of Law