Bailey at the Bar

Lawyer to Sam Sheppard, and later O.J. Simpson, F. Lee Bailey gave advice to C-M on criminal law in 1966 that remains salient today.

CAREER, PAGE 4

Nuptial Bliss

When wedding bells ring, does the law take a back seat? When does perfecting the big day become an obsession? A bridal show addict confesses.

OPINION, PAGE 7

Playing on both sides of the law

C-M alum Miles Camp keeps busy as a prosecutor and defense attorney and profiles both sides.

CAREER, PAGE 4

THE GAVEL

VOLUME 50, ISSUE 4 APRIL 2002

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

Mickey maneuvers with the Mouse

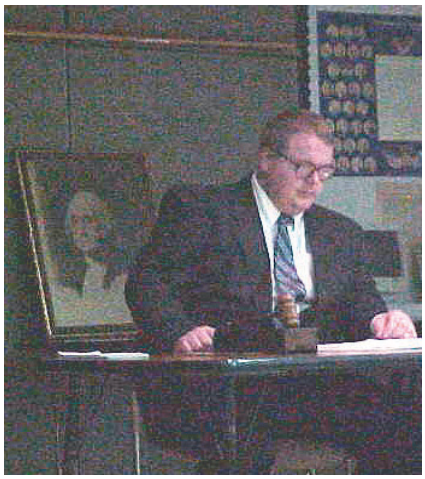
GAVEL STAFF

Roughly 3200 words. Five hundred fifty-four e-mails. Thirty-one days. Thirty footnotes. Twenty-eight printed pages. Ten drafts. Nine Justices. Eight students. One professor. Result: one potentially historic *amicus* brief.

The U.S. Supreme Court granted *certiorari* in the case of *Eldred v. Ashcroft* Feb. 19. According to the pleadings of the lower court, the case involves a lead plaintiff/petitioner who, "uses, copies, reprints, performs, enhances, restores or sells works of art, film or literature in the public domain." Eldred, owner of Eldritch Printing, is a niche Internet publisher who runs a free Internet library offering the text of about 50 classic books, poems and essays that are public domain.

The 1998 *Bono Act* conveyed extensions of the term of an author's copyright by 20 years for subsisting works as well as those not yet created. The brief attacks the constitutionality of

See **AMICUS,** page 2



COURTESY OF ED MANKARIEWICZ-C-M

3L Mat Rieger presides over a mock indictment hearing.

Lessons learned, taught by C-M

By Ed Pekarek
GAVEL EDITOR

A number of C-M students and one esteemed alumna are helping with a program in Tremont that may alter the lives of Cleveland City School students by exposing them to mock trials and the Justice Center.

Ed Kawalkiewicz, 3L and eighth grade English and Reading teacher at Luis Marin Middle School in Tremont, established an "intra-disciplinary" curriculum that gives "hands on" exposure of the judicial system to nearly 80 students. Through the program, students voluntarily subject themselves to a trial by their peers to avoid harsh disciplinary measures.

Turn to page 2 for more.

BLSA breaks ranks, makes history

Exclusionary racial policy defeated in Detroit debate

By Ed Pekarek
GAVEL EDITOR

Leaders of the Black Law Student Association (BLSA), the Cleveland-Marshall chapter of the National Black Law Student Association (NBLSA), played a pivotal role in reversing a racially exclusionary membership policy that stood in place since the organization's inception over three decades ago.

The NBLSA constitution prohibited the formal recognition of any member who was not of African-American descent.

"We went to [the national convention in] Detroit with the specific intent to change the exclusionary membership policy," said 1L Monique McCarthy, BLSA president-elect. "Racial exclusionary policies were never an issue at C-M since BLSA's founding in 1968.

"The NBLSA leadership had submitted to the midwest conference agenda a Constitutional amendment militating that no local member's Constitution may 'conflict with or supplant' the [NBLSA] constitution," said McCarthy. C-M delegates realized the exclusionary clause in the national constitution might place the status of their chapter in jeopardy. C-M's BLSA membership currently includes numerous members of Latino, Asian and Causasian descent and requires only that any prospective member pledge to further the missions of the chapter.

Strong proponents of an open membership policy included the BLSA chapters from C-M, as well as Iowa University and the University of Michigan. The nascent coalition to eliminate exclusionary policies proposed a resolution challenging the NBLSA requirement that "...membership in BLSA is limited to Black students only," according to a BLSA internal memo obtained by the *Gavel*. "Michigan had already changed the chapter name from Black Law Student Association to

See **BLSA,** page 3

You Should Know

By CLARE TAFT

C-M Student Leaders

The 2002-2003 C-M Student Bar Association officers are; Chris Tucci, president, Brian Stano, vice president of budgeting, Matt Basinger, vice president of programming and Anne Zrenda, treasurer. Tucci, Stano and Basinger are 2Ls. Zrenda, a 1L, served as an SBA Senator this year.

The *Cleveland State Law Review* elected its 2002-2003 Editor-in-Chief, 2L Stacy Cameron. The *Journal of Law and Health* elected 3L Ed Pekarek as its Editor-in-Chief.

The Moot Court Board of Governors extended membership to six 2Ls following the Spring Intramural Competition, Matt Basinger, Michael Hunter, Mark Gould, Danielle McGill, Michelle Molzan and Rhonda Porter. Gould swept the Intramural Competition awards. Moot Court also elected its Board of Governors for 2002-2003 with 2L Renee Davis serving as chair and 2L Don Herbe and Molzan as vice-chairs.

Leading torts scholar visits C-M

By Colin Moeller
NEWS EDITOR

Robert Rabin, the A. Calder Mackay Professor of Law at Stanford University, and one of the nation's leading torts scholars, recently visited C-M as part of the Cleveland-Marshall Fund Visiting Scholar program.

In addition to holding a joint torts class with all 1L full-time students, Rabin delivered the 74th Cleveland-Marshall Fund Lecture, entitled "Tort Litigation as an Instrument of Social Reform: Achieving Fairness in Compensating Victims of September 11."

Rabin discussed actions taken by Congress to create a victim compensation fund providing no-fault benefits to victims and their survivors of Sept. 11. "[Torts] is the most highly visible mechanism for assigning responsibiliy and providing compensation," said Rabin. "So ordinarily we look to torts, but there was nothing ordinary about September 11."

Rabin distinguished the Victim Compensation fund from other no-fault benefit schemes and stressed the differences between collecting under the fund and pursuing private tort action. Pointing out that the fund imposes fast track elements, no judicial review and a cap on aggregate payments, Rabin said, "the Victim Compensation fund reveals an overlay of animosity towards the tort system."

Rabin warned that while an award under the new fund is certain for eligible victims, a damage award in a tort action is never certain. He further warned that the element of proximate cause in tort actions brought against the airlines would be a "major hurdle to surmount."

"In the end," said Rabin, "it seems to me, recovery in torts is subject to a number of pitfalls and limitations that the fund option does not impose on victims."

Rabin speculated about future implications of Congress' actions in creating the fund, stating the future is uncertain as to what types of catastrophes need to occur before the government will enact similar legislation.

Rabin, holds a B.S., J.D. and a Ph.D in Political Science from Northwestern University and currently teaches at Stanford Law School.

Rabin serves as a member of the American Law Institutes Advisory Committee to the *Restatement of the Law, Third, Torts: General Principles*.

THE GAVEL
Law
April 2002

Fond Farewell to Picker, a C-M pioneer

By Steven H. Steinglass

Thirty years ago, Jane M. Picker, joined the faculty of C-M and founded the law school's Sex Discrimination in Employment Clinic. In so doing, she inaugurated the first law school clinic in the country devoted to upholding the rights of women charging workplace discrimination. Two years later, with money from the Ford and Cleveland Foundations, Picker and C-M Professor Lizabeth Moody co-founded the Women's Law Fund (WLF), the first nonprofit organization in the country to address sex discrimination cases. In 1974, under the aegis of the Women's Law Fund and the Clinic, Picker traveled with WLF lawyers and clinic students to Washington, D.C. where she successfully argued before the U.S. Supreme Court the right to work of a Cleveland school teacher dismissed from her job when she announced her pregnancy (*LaFleur v. Cleveland Board of Education*). Astoundingly, it was the first time Picker had ever argued a case in a court of law. The depiction of a pregnant school teacher in the mural in the Student Services area celebrates this piece of C-M history.

The Dean's Column

The Clinic, now called the Employment Law Clinic, under the direction of Clinical faculty Kenneth Kowalski and Gordon Beggs and Administrative Coordinator Jean Packard, expanded to include representation of men and women alleging workplace discrimination based on race, age, gender, country of origin, disability and other employment claims. The Clinic has had notable successes in securing the rights of women wishing to enter the safety forces; in Cleveland the first women firefighters owe their jobs, in part, to Clinic advocacy.

Picker staked the law school's claim in the world that was opening following the collapse of the Soviet empire. In 1995, she inaugurated the law school's Russian studies program and negotiated an alliance with St. Petersburg State University to establish the Cleveland-Marshall Summer Institute for Law Students in St. Petersburg, Russia. The Summer Institute, begins its eighth year in June.

Last year Picker decided to retire. She will remain at C-M to oversee the Russian program.

A Jury of Their Peers

3L's mock trials prove beneficial over traditional classroom discipline

Continued from page 1 --

Kawalkiewicz is a part of a "team teaching" program pairing instructors in various subjects with a group of students. He teamed up with a Social Studies instructor to create the judicial program in 2000.

"We use actual circumstances," said Kawalkiewicz. "Instead of relying on the school's administrative due process, we use an alternative procedure with three steps: witness statements and pre-trial investigation, charges and indictments and lastly, a fully functioning trial."

ED PEKAREK – GAVEL

Kawalkiewicz (left), steers students to "straight and narrow"

The program, now in its second year, prosecutes students in a mock trial environment for misconduct that falls within the discretion of the teacher. The teaching staff has the option of submitting the student to the school's administrative processes, or giving the student the choice to participate in the program.

Students must voluntarily subject themselves to the process in lieu of the administrative disciplinary process. The quid pro quo for the student is generally a lesser penalty, and a valuable lesson.

One student who was "convicted" of stealing a bag of candy from a teacher's desk faced a three-day suspension if he opted out of the mock trial procedure. "His fellow students had already reported him to a teacher, and as a group, we decided he would be an ideal candidate for the mock trial," Kawalkiewicz said.

Instead of the suspension, the "accused" was found guilty by a jury literally comprised of his peers and sentenced to a Saturday of detention. Willing participants escape a suspension on their permanent record.

The program integrates multiple aspects of the judicial system into the program.

"We don't take the students to the County Jail, since we try to avoid the ugly part of the system and try to focus on the rational and civilized portions of society and judicial process," Kawalkiewicz said.

The day-long experience at the Justice Center included a full docket. Students watched Cuyahoga County Common Pleas Judge Nancy Russo, '82, rule on an aggravated auto theft case, a hearing to determine the sanity of a defendant and a case of welfare fraud. Russo injected commentary and explanations into the proceedings in between cases, fielding questions from the students packing the courtroom. Russo said, "the students were great. Thoughtful people of all ages get the notion that T.V. equals reality and everyone is guilty. The kids weren't at all aware of the number of mentally ill people in the system."

After the court proceedings, Russo took the students into her chambers and gave them a tour of the inner workings of the Justice Center. "The kids were really curious about the jail. They had no idea that so many of the people being held were there because they are poor. We talked about Sept. 11 and the number of people that were left behind when the building was evacuated who really had no idea whether they would live or die all because they didn't have $150 to post bond. That really surprised the kids, because of T.V., they equated being held over with guilt," said Russo. "I'm very proud that the Cleveland City Schools are undertaking these programs and was pleased that the kids were able to see women role models, including Judge Saffold, who is African-American, and to see first hand one of, if not the most diverse bench in the state of Ohio."

The third portion of the program was a series of mock trials involving fictitious crimes. 3L Mat Rieger presided over the grand jury while 3L Renni Zifferblatt gave the class a presentation on evidentiary rules. Students fill the other roles, including victims, witnesses, prosecutors, attorneys, defendants, bailiffs and judges. The proceedings are restricted to a closed record and rely on hypotheticals with crimes such as petty theft. "Using the exact same fact-sets, with different prosecutors, defendants and defense teams, we consistently get different results...that's the real lesson," said Kawalkiewicz.

AMICUS: Davis and students submit brief to High Court in opposition of Disney lobbying

Continued from page 1 --

the former, contending in part that it is impossible to incentivize creation with *post hoc*, or retrospective, copyright extensions. It was these retrospective extensions that monied lobbyists such as Disney Corp. coveted, especially as cherished properties such as "Steamboat Willie" were on the cusp of becoming part of the public domain.

Upon the Court's grant of *certiorari*, resident intellecutal property expert and co-author of the West Publishing intellectual property "Nutshell," Professor Michael "Mickey" Davis, took up the task of recruiting a team of intellectual property students to craft a brief that, while in partial support of the petitioners, argues against retrospective copyright extensions altogether.

The team was assembled Mar. 6 and completed their journey to the steps of the Court one month later, on Apr. 6, when the brief was submitted for printing. The brief was filed with the Court Fri., Apr. 12.

The team was comprised of eight C-M students and led by Davis. Davis is no stranger to the U.S. Supreme Court, having filed in 1991 as an *amicus* in the matter of *Genetics Institute, Inc. v. Amgen, Inc*.

During part of the drafting process, Davis was in Paris delivering a speech on international I.P. issues and communicated from internet cafes.

"I told one of the students that he was responsible for articulating the argument just as an experienced lawyer would; when he objected, 'But we're just law students,'my answer was, 'not for this, you're not.' And the project then proceeded as if we had nine lawyers, not one lawyer and eight students," said Davis.

The *amici* team included, 3L Peter Traska, 2L Dawn Snyder, 3L Ed Pekarek, 3L Angie Marshall, 3L Lisa Johnson, 3L Mike Dolan, 2L Jay Crook and 3L Marquetta Bryan. While each student had a hand in the drafting, the division of labor was based on the various fields of expertise each possessed. Crook, an I.P. clerk with local patent boutique, Fay, Sharpe, Fagan, Minnich and Mckee, handled the bulk of the European Union harmonization issues; Marshall became an expert in the labyrinth of Supreme Court filing rules; Snyder and Bryan ensured blue book compliance; Dolan, an experienced software engineer, dealt with high-tech I.P. issues; Traska, a member of the national semi-finalist C-M Moot Court team, handeled proper brief "voice" for the high Court; and Pekarek, *Gavel* Editor-in-Chief, oversaw project management and editorial duties.

"It's a great argument," said Traska. "Mickey might be the only one to argue, either to the Court or in academia, that the only real problem with copyright extension is the lobby for extensions of existing copyrights.

"The whole message of this brief to the Court is that 'less is more.' The argument is beautifully simple: if the Court finds retroactive extensions of existing copyrights unconstitutional, the Court may never have to review copyright legislation again," said Traska.

The brief was filed on behalf of two non-profit I.P. organizations, the Union for the Public Domain [UPD], based in Washington, D.C., and the Cleveland-based Progressive Intellectual Property Assoc. [PIPLA]. C-M Dean Steven Steinglass funded the inaugural C-M student project, which Davis said he hopes to later develop into an accredited I.P. course.

"It was an intriguing exercise in adopting a sometimes foreign point of view and learning to embrace it as your own," said Traska. "It was great training to hone my skills as a true advocate in every sense of the word.

"Mickey is quite the strategist. Our brief was filed well in advance of the deadline [May 20]. His theory being that an early filing may make it more likely that 'at least one clerk will read it and maybe a party will even cite it.' It succinctly spells out a coherent and principled way for the Court to restore a constitutional balance to copyright term legislation."

The C-M brief is available on the Internet at: http://eon.law.harvard.edu/openlaw/eldredvreno/

BLSA: Defeat of Racially Exclusive Membership Policy

Continued from page 1 --
Black Law Student Alliance as a demonstration of conscience in opposition to the exclusionary policies," McCarthy said. The BLSA memo indicates that the initial membership resolution at the midwest conference was unanimously defeated.

According to McCarthy, during early plenary sessions Mar. 16, delegates from C-M, Iowa and Michigan led a coalition that proposed an agenda item to eliminate the exclusionary policy altogether, with Michigan and Iowa stating their willingness to cancel their affiliation with NBLSA.

Initial reaction to the proposal was not receptive. Those wanting to eliminate the policy were the minority. Reportedly, NBLSA founder, A.J. Cooper, openly decried the attempt to open membership policies.

"I couldn't believe some attitudes from other schools' delegates," said BLSA President Sandra English, 3L. "Some said, 'we're the Black Law Students Association, if we let everyone in, they'll take over.' "

"The prior NBLSA president was technically not even an eligible member pursuant to the constitution by virtue of the fact that he was African, *not* African-American," said McCarthy.

"I can't say how black students should feel about white members joining BLSA, but I'm really happy to be a part of the organization and am very grateful for all the friendships I've made," said 3L Kyde Bloor, a caucasian member of BLSA. "BLSA is an organization that advances goals and opportunities for the black law student population. I officially joined because I eventually got over being a white member."

"Surprisingly, liberal schools like Columbia and NYU were some of the strongest supporters of maintaining a separatist policy," English said. "Our delegates took a risk speaking out against the majority [who favored exclusionary policies] and may have been perceived as 'sell-outs,' presumably because schools like C-M might encounter Fourteenth Amendment problems as a state funded organization."

"As members of BLSA, if we're striving to promote the purpose of educating African Americans, I think we should welcome all types of members," said 1L Angela Harrell-Norman, BLSA vice president-elect.

"Southern schools have academic environments where students take classes with paintings and sculptures of Confederate soldiers overlooking them [and] may want to have something of their own." said McCarthy, who is of Jamaican descent, noting a University of Georgia delegate who had initially objected to eliminating the policy.

According to McCarthy, the Georgia delegate was one of many who reversed their vote as the policy was defeated 119-27, following a six hour debate.

2L Michael Hudson, who hails from South Carolina, said perpetuating views of the south that are "totally bogus [is] a hinderance to advancement, when people who never lived in the south comment on it [racial relations] — that is a set-back. It's a sticky situation because many of the schools advocating the exclusionary policies are not historically black colleges."

"There is an abundance of southern black students at C-M who are unquestionably some of the most versatile. Whites and blacks have historically stood together to fight injustice." said Hudson.

"Subtle racism still exists, and becaue of that, it is important to be with people who share similar experiences," said 3L Eddie Sipplen who comes from a small town in Georgia.

"[T]here are still a lot of instances where whites need to understand that blacks can and do solve their own problems," said Sipplen. "[W]hile others are well intentioned, it still perpetuates a master-slave dynamic in that we as a group need help solving our problems... which is totally untrue. What others might take for granted isn't taken for granted by black students. I'm torn on the issue but should we bar other [members]? No."

There is a cure for the summer clerk blues

By Karen Mika

Q: Is my legal career over if I don't get a clerking job after my first year?

A: Although experience is important in building a legal career, I've always believed that some law students decide too soon what they "want to be when they grow up." Some first year students take clerking jobs for the sake of taking a clerking job, and it isn't always the right fit. For the unattached 23-24-year-old who knows he is going to be an attorney but doesn't quite know what kind, the answer is easy. That person should find some type of summer legal job and get experience. For students falling into other categories, the answer is not so simple. Remember, there are two parties to an employment relationship – the employer and the employee. Each has different expectations, and in the best possible situations, those expectations mesh.

Legal Writing

For the student who knows where he is going, or knows whom he knows, there may be more options. At the very least, that student should take more time to consider what is the best course of action.

There is also another category of student that is always in a dilemma – the family breadwinner who is reluctant to give up a high paying job with benefits in order to get experience. In my opinion, that person should also give careful consideration to what should be done after the first year before leaping into a major life changing decision. Summers, especially, provide the opportunity to work two jobs (for the extremely motivated), or at least to take the time to see what's out there and what might be feasible.

Frankly, I'm of the opinion that anyone who graduates from this school should be able to find a job in the legal field, even if he never worked an outside clerking job. There are numerous opportunities for practical experience by way of the clinics, and there are also internal jobs, such as being a tutor or a research assistant. One word of caution, however. Be realistic about your expectations. If you chose not to work an outside clerking job during school, then your career in the "legal field" might have to start with setting up shop at the back of your house and doing family wills or property transfers. The bottom line is always to think before you act, always weigh your options, and always consider the likely result of your choice.

Prosecutor moonlights on other side of the "V"

Practice Profile Q & A: Criminal defense attorney, Miles A. Camp.

Camp currently holds the positions of City Prosecutor in Norwalk, Ohio and private practice criminal defense counsel. He sat down with Gavel Reporter Jay Crook to share his thoughts.

Q: What first drew you to criminal law?

Practice Profile

Camp: Trial practice has always interested me, and criminal law is where most trials come from. A criminal attorney, on either side of the bar, will generally try more cases in a year than most attorneys do in a career.

Q: Having been both a prosecutor and a private defense attorney, what elements do you think are keys to being successful in each?

Camp: The key to success in criminal law, be it prosecution or defense, is the same as it is in any area of the law, you have to do your homework. If you come to pretrial, or even worse trial, not fully versed in the law and the facts of the case, you will be at a serious, serious disadvantage. Not to mention the fact that you're bound to end up looking stupid. While it's damaging to end up looking bad in front of a judge or your colleagues, it can be fatal in front of a jury. The key is preparation, preparation, preparation. I think a lot of people have a major misconception about the different sides of practice. A lot of people who have spent their entire careers on one side of the bar think they could never represent the other side. In fact, the truth is that it is really the same game. Changing sides is very easy. Knowing what the other side needs to do makes you a better advocate, whether as a defender or as a prosecutor.

Q: What do you think is the greatest advantage to criminal practice?

Camp: I don't know if I would call this an advantage per se, but one of my favorite aspects of criminal law is that it is never boring. The law is always changing. New issues are entering your jurisdiction on a regular basis. One advantage is the priority that criminal cases receive. Criminal trials always receive top priority. While this works to your advantage, it puts a great deal of pressure on criminal attorneys.

Q: What steps would you recommend taking to students interested in getting into Criminal Law?

Camp: Trial practice is critical. The best way to learn that is by watching others do it. An internship in a prosecutor's office, public defender's office or the U.S. Attorney's office can be extremely beneficial in this regard. Working in the area will not only help you learn the practice, but will allow you to make connections with the criminal bar, which will definitely help you later. Even just showing up at the courthouse and watching a trial or two can help. Criminal trials are always going on, so seeing one is easy. Don't be afraid to ask questions. In my education, a law school education does woefully little to prepare you to practice criminal law. You learn the foundations, evidence, civil procedure, and constitutional law, but the actual nuts and bolts of criminal practice you will have to learn on your own.

Q; What is the biggest challenge in being a prosecutor?

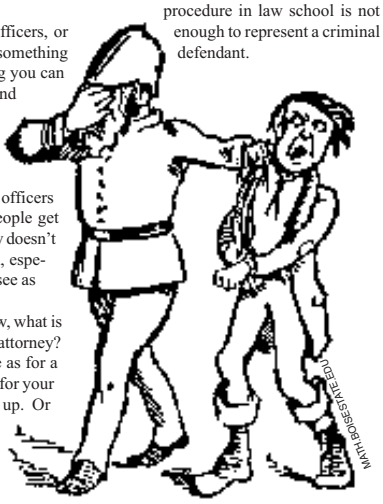
Camp: Dealing with police officers, or more often a victim, who want something done, when really, there is nothing you can do. When a case is presented, and either the victim or the officer wants the defendant to do jail time, but you know you can't make the case needed to get jail time. Keeping vicitims and police officers happy is a big part of the job. People get unhappy when they find out the law doesn't work the way they think it should, especially when it involves what they see as technicalities.

Q: From the other point of view, what is the hardest part of being a defense attorney?

Camp: In a way it is the same as for a prosecutor. You may do your best for your client, but they think you screwed up. Or a client tells you he is guilty, so you work hard to negotiate a beneficial plea. Then the same guy turns around and tells everyone else he's innocent. When the deal is made, even though it is the right thing, the best thing, and maybe even the only thing you can do for the client, the family may think you sold him out.

Q: What do you think is the biggest misconception about criminal law?

Camp: The general public, and even some members of the bar, think it's simple: black and white, right and wrong, good guys and bad guys, when of course in reality things don't work that way. Criminal law is a specialty, with the same level of nuances, tricks, and intricacies you find in any specialized area of the law. It's not as simple as everyone thinks. There are many shades of gray and so many different issues that have to be dealt with in every trial. I've seen a lot of civil attorneys come in and try to represent someone on a charge they consider to be simple, say a DUI. They think they can do it, and usually, without their clients knowing it, they commit borderline malpractice. Just taking criminal procedure in law school is not enough to represent a criminal defendant.



Camp's eyes are wide open to his clients, victims and the accused.

F. Lee Bailey challenges students; Enter criminal law

"The Constitution, if proposed today, would never get out of committee," asserted F. Lee Bailey, well-known criminal attorney. Speaking at Cleveland Marshall, Nov. 25, as part of the Cleveland Marshall Lecture Series. Mr. Bailey emphasized the need for more criminal attorneys who are competent. He referred to criminal law as a "barren field" as evidenced by his trying such important cases as the Sheppard case after only six years of practice.

Since the Supreme Court made legal counsel a necessity in a criminal action in *Gideon v. Wainwright* and other subsequent decisions, various groups have offered suggestions to fill the void of competent criminal attorneys. Mr. Bailey mentioned and commented on some of the suggestions.

(1) Divide the load among the various members of the Bar Associations. But can you imagine a tax attorney trying a criminal case? (2) Assign all the cases to experienced criminal attorneys. But this would be a case of too many for too few. (3) A type of 'Legal Blue Cross' has also been suggested. But you can't handle a criminal case via a file.

Mr. Bailey's suggestion: "If we can get five out of every 100 students to enter criminal law, and set up an apprentice program for them (you can't learn to try a case in law school), then the criminal law bar can be properly staffed."

"If you like criminal law and get into it, you'll like it intensely," Mr. Bailey asserted. Everybody likes a winner, he continued, but much grueling tedious work is involved in criminal law. The criminal attorney must go "down to the pit and smoke out the truth," he added.

"Criminal law is not the business of dealing with criminals," stated Mr. Bailey. The defendants in most criminal trials are just everyday people. However, Mr. Bailey quipped, "The professional (business) criminal feels that now since the police have been spurred to investigate, they're ruining the business of thieving."

Commenting on expert witnesses, Mr. Bailey stated that they will be the bane of your existence. If they're good, they're hard to cross-examine. And, sometimes they cannot speak in law language.

"There is so much law that has to be changed," said Mr. Bailey. "If the answer on the shelf doesn't sound right, challenge it," he added.

Mr. Bailey gave Cleveland Marshall students the same advice that he received while a student at Boston university from a Professor. "Some people think that your license to practice law is a license to steal. If you work hard, you'll make money, but don't reach the age of 50 and have only money."

50 Celebrating

This article first appeared in the Dec. 1966 issue of the Gavel. It is part of an ongoing series featuring Gavel articles from the past 50 years to celebrate the Gavel's 50th anniversary.

When it's all said and done, what's the point?

By Mathew Reiger
GAVEL COLUMNIST

Mat Rieger
The Staff Infection

Throughout my career as a law student, I have had occasion to discuss the pros and cons of a legal education with many of my peers. Somewhere at the heart of all those conversations is the one question I have yet to find an adequate answer to. That is: "What's the point of all this?"

After three years at C-M, I have heard these words come from several of my fellow students. As graduation looms near and the state of the world gets ever more bleak, all I can do is reiterate, "Yes, what is the point?"

I could go on a rampage here and share some self-righteous rhetoric about legal education, my personal views on particular issues, or the law itself. In essence, I could take this time to defend my choice to come to law school, but what would be the fun in that?

Instead, I would like to focus on a few of those things one takes from law school that are not so clearly evident.

First of all, I have learned to be a workaholic, juggle multiple tasks simultaneously and forsake anything fun. This skill, in turn, has provided me with several opportunities to pass up ski trips, golf outings and vacations, so that I can sit around and read law-review articles.

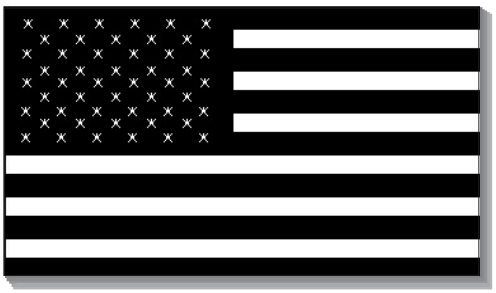
I have also learned to look at situations from a variety of perspectives, which in turn has led me to a place where I am no longer sure what my own perspective is. Additionally, my experience with taking law school exams has made it crystal clear that we are caught up in a profession where it doesn't matter what you know, but only what they think you know.

Law school taught me above all else to never answer a question with a direct answer, that all questions give rise to more questions, and in the end, there are no answers, only endless questions.

So, as I reach the end of the line here at C-M, I'm still trying to figure out exactly what the point of all this is. And maybe that's my biggest regret. So take heed, first years. If I had it all to do over again, the first time I found myself on the losing side of the Socratic method, I would have looked that professor in the eye and said, "Sorry man, but I'm looking for people with answers, not questions."

Reiger is a 3L.

Me and My Shadow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Michael Cheselka
The Weak in Review

"First, there is a mountain. Then there is no mountain. Then there is." *Donovan, 1966.*

So as to bypass the expense and embarrassment associated with hanging chads, the current administration has created Continuity of Government. Roughly 100 bureaucrats exchanged living-on-a-fairway in suburban Virginia for living in a bunker in "parts unknown."

This information came to light (pun intended) during the same week that the Federal Office of Disinformation was disclosed to have either; made plans to open, been running since before the debates, or never existed at all. I always believed they published the *Weekly World News*. Who else would have been privy (no pun) to the assumed un-retouched photos that accompanied last issue's front-page bombshell exposing (make your own peace with the pun thing) Osama bin Laden on a nude beach? Disinformation conjures up all that should be loathsome to a free and open society. Disinformation is a separate and distinct cousin of non-disclosure. Sound bites proclaiming "I'm glad the Nazis didn't know what beach we were targeting" substitute apples for an honest discussion of the orange. The same obfuscation raised its useless head in media coverage of our new secret government.

Criticism of a shadow government concept was blasted as outrageous and partisan. It is neither. One columnist claimed to be sleeping better at knowing that "provisions" have been made to ensure that the government's ability to function cannot be dstroyed. The federal government, as we ratified it, is to contain three branches of government, including an independent judiciary. A secret government without such a make-up would be a nightmare. We should not know where they are, but we should not be dozing off until we know *who* they are. Our stated objective in this yet-to-be-defined campaign is to "rid the world of evil." What guarantees do we have that we accomplished that task within the confines of the bastion of solitude? Shadows move undetected in total darkness. Truth and justice can stand the light of day.

As the founders envisioned it, the fourth estate was to be vigorous public discourse. A Feb. 19 decision by a U.S. Court of Appeals may have torn down the only remaining barriers standing between a free press and conglomerized infotainment when it annulled the few remaining governmental regulations limiting the ability of corporations to own and operate all of the television and cable franchises in the same market. The irony of Disney's endeavor to woo Letterman can be seen as a type of post-shadowing, it was an extended act of terrorism that gave birth to the original "Nightline" concept. Look how far we've come.

The white elephant in this room has always been the audience. If it wasn't, there would not have been a perceived need for the electoral college. Today, we contemplate the value of open and honest discourse in a country where, annually, the best selling book is *The Bible* and the most widely read publication is the *National Enquirer.* According to *Harper's Index*, America assumes her role in the information age with a citizenry of which 47 percent believe that evolution is "probably" or "definitely" not true while 48 percent believe that the tenets of astrology "probably" or "definitely" have some scientific truth. That you can sell newspapers in this country proclaiming that God's image has been revealed in a tortilla is proof that there are too few lawyers. People need us.

In an emerging era where valid claims that the Patriot Act violates five of the 10 Amendments contained in the Bill of Rights simmer on a back burner while the concept that it is unpatriotic to criticize governmental mutations, ours will be a formidable task. It should not be politically incorrect to remind ourselves that busboys, secretaries and janitors perished on that day, as well. As the American experience evolves, in public and in secret, lawyers must become archaeologists, philosophers, freedom fighters, ditch diggers, educators, pioneers and advocates.

The citizenry is only in mortal peril if we settle on becoming mere tour guides.

Cheselka is a 4L.

Try a "depth charge" instead of a "fuzzy navel"

Paul Petrus
GAVEL COLUMNIST

Paul Petrus

The presidency is one glass ceiling that American women have been unable to break through, but the champagne ceiling is one they have utterly imbibed.

According to the *New York Times*, women have seen the bar and nightclub power shift in their favor: Women are *the* force behind the omnipresent marketing of martini and cocktail menus, and men are following suit (dress) with their orders. One man, an electrician, told the *Times* about his choice of an apple martini, "I concede it's a chick drink, but it's perfectly seasoned."

Perfectly seasoned*?* Earth to all men who frequent the Warehouse District: Put down the chocolate martinis and pick up a pint. We're at war.

Six months ago our teetotaler President declared war against one-third of the planet. Now is hardly the time to order a kiwi-flavored cocktail.

Women's ascendancy to the top of barroom hierarchy could not have been quicker. Women with incorrigible taste buds wouldn't accept straight scotch for long, and now they're imposing Creamsicle martinis upon us all.

Be a man! Put down that cosmo and pick up a Bud!


PRESSCLUB.ORG

A time of war is no time for these fluff drinks. What self-respecting terrorist is so soft he'd order Sour Apple Pucker? What is required to protect our nation is strong impenetrable men like Humphrey Bogart in "Casablanca," who sacrificed a life of love for something greater—freedom for all—and glass after glass of gin, sans tonic and lime.

Whom do you think terrorists fear more? That same homophobic man who challenges you to an arm wrestling match because you accidentally brushed against him at the bar, or some guy sipping a pink grapefruit cassis martini. I don't know about you, but I'll put grapefruit boy's arm through his faux-oak barstool.

Admittedly, it's tough not to try to show all the right moves on a first date. Just the other week I was out with a woman who ordered a Pink Lady. When the bartender prompted me, I succumbed to my date's charms and requested the same.

"How do you like it?" she asked.

I hated it.

"It's almost as sweet as you are," I responded, praying that God's not a man and not an easily disappointed one if He is.

That lady and I have a second date, and I'm going to insist that we rent a war movie, pick up a six-pack and order a pizza topped with ground beef. Rare. If she suggests *light* beer she's walking home alone.

During times of war All-American men must similarly insist, "I'll have a bottle of Bud, bartender."

Petrus is a 4L.

Celebrating 50

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Confessions of a Bridal Show Junkie

I knew I was in trouble when, in typical first-year-fashion, I was called upon to actually 'brief' a case, looked down to my notebook and saw only sketches of my second wedding gown. Yes, I have already purchased my second wedding gown.

Like any addict, my obsession with planning my wedding presented itself. I found myself muddling through facts and holdings and thanking God I had the foresight to kiss the Blarney Stone when I was in Ireland—at least it blessed me with the lawyerly ability to b-s my way through class. Walking out of class, I knew I had to make some changes.

Having quit working in December, I vowed to study full-time and to schedule myself to begin prepping early for the bar exam. Instead, my study calendar was already full. Fridays were devoted, not to reviews of tort law, but to finding the perfect dress, the perfect flatware to complement Grandma's crystal and the best Celtic knot work invitations this side of the Atlantic. My Saturdays and Sundays were spent navigating through seas of brides at the latest bridal show. I knew exactly what I needed; go straight to the limo companies and travel agents. More importantly, I knew, given my law school experience, to bring a good pen as we brides were bombarded with contest entry blanks and mailing lists. If you thought telemarketers were bad, wait until a ring is slipped on your finger!

Had I exchanged wedding planning bliss for a new greedy me who even dared to fanaticize about life after C-M?
By Megan Fraser

I was in awe of the women with the foresight to bring pre-printed mailing labels to fend off the carpal tunnel syndrome

Bridal show junkies are sure to develop. I was determined to find the best, most unique ideas and, of course, to win the prizes promised to all the lucky brides.

Off with my trusty pen, I went to them all: Landerhaven, Michauds, Great Lakes Mall, the downtown Marriott, etc., etc. Like any addict, I made friends with my fellow addicts. Along the way, I think I lost one friend. After arriving at a frenzied show, my oh-so-patient fiance Tom and I spotted another C-M student and her fiance muddling their way through the crowd. I was elated. Finally, I knew someone in this sea of tulle and bows. My luck was on a roll that day as we won a bridal show prize. Our friends won a lovely door prize too. Yet, I suffered when my friend quickly left after the show and didn't wish to speak to me.

Had my quest for wedding "Holy Grail," been for naught? Had I exchanged wedding planning bliss for a new greedy me who even dared to fanaticize about life after C-M? Had I isolated my self into my addiction?

In the days and weeks that have followed, I entered my personal 12-step program. I have opened books again. Words, not pictures appear in my notes. Textbooks are replacing well-tabbed issues of bridal magazines on my bookshelves. Even my calendar has begun to resemble that of a third year student (Remember cap and gown, etc…).

Now that the season of bridal shows is come to a close and my wedding is nearly planned, I might be able to completely return to academic life. I think I'll be okay. I'll let you know; I'll send you a postcard from my "all expense-paid cruise honeymoon" and let you know how it turned out.

Fraser will earn her J.D. in May, and her M.R.S. in October.

4L Enlightenment at End of the Tunnel

By LeA Schemrich
STAFF WRITER

Have you ever noticed that as you move closer to graduation, people comment, "So you can see the light at the end of the tunnel, huh?" I will graduate in a few weeks and the light at the end of the tunnel cannot only be seen, it's brilliant.

I know, even after four years of not having weekends, of having gone without vacations because I've had to use my two-weeks to prepare for finals and of ruined eyesight that I would do it all over again. I am surprised to find myself feeling both euphoric and saddened by the end of my law school career. I can still recall my first class and the terrified silence which permeated the room as my fellow students and I, sat nervously waiting for class to begin. I remember hearing rumors of the Socratic method and horror stories about professors requiring students to stand in class to recite case facts. I'm convinced these rumors are perpetuated by lawyers to keep prospective students out of the market.

However, before I depart this life to begin a new one, I wish to share what I believe is useful "inside" information, gained by four-years experience, as well as a few universal law-school truisms.

1. Get your resume into shape, then leave it alone. No matter how many times you revise, people will make suggestions.

2. For most subjects, there is no mental monster you must conquer before being able to understand the material. Life experience has already given you the answers to most questions professors ask. If the professor asks a question and you find yourself thinking the answer is so obvious it must be wrong, *you're* wrong. It's the right answer.

3. Pay for bar review classes in full early in law school. The powers-that-be will never miss an opportunity to drain us for funds. This is especially true in your last year, when you find yourself socked with graduation costs and bar application fees.

4. The bar exam has two parts: essay and multiple choice. BarBri review covers both. PMBR reviews only the multiple choice. PMBR offers two types of classes, a "6-day," and a "3-day." Lawyers recommend PMBR and say the 3-day is all you need. It's also substantially less expensive than the 6-day.

5. Unlike the financial aid we receive during our three or four years, the loan application for money to live on while studying for the bar is based on credit rating.

6. Outline as you go. You can never learn as much as you need of a semester's material in a few weeks. When you finally outline, you'll notice it would have been easy to outline as the semester progressed.

7. You must fill out two bar applications prior to graduating. The first is a detailed, costly application which will lead to your character and fitness interview. This should be done in your second year. The second application is the supplemental bar application. It asks you the same questions you answered in your first application, only in the context of whether your answers have changed since you first filed. It cannot be completed until the semester prior to graduation. It costs around $250.00 to file.

8. The character and fitness interview is not the nightmare it's rumored to be. Mostly, they look for red flags.

9. C-M has a residency requirement. In order to graduate, you must have a certain number of semesters with a minimum number of credit hours per semester.

10. You must study the black letter law set out in your ethics textbook to pass the MPRE. The MPRE is not a blow-off test.

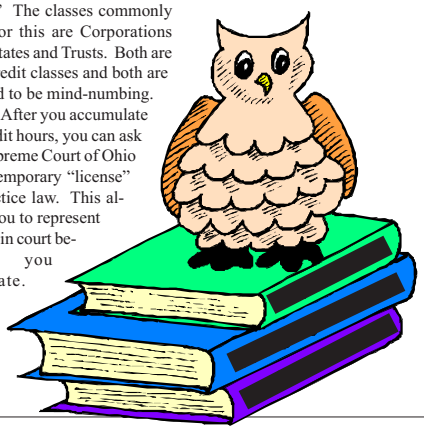
11. The school allows you to take classes on a pass/fail basis. Pass/fail means that if you get a C or above, it is recorded as a "pass." The classes commonly used for this are Corporations and Estates and Trusts. Both are four-credit classes and both are reputed to be mind-numbing.

12. After you accumulate 53 credit hours, you can ask the Supreme Court of Ohio for a temporary "license" to practice law. This allows you to represent clients in court before you graduate. The cost is a $20 filing fee--the catch: you cannot use it in private practice, it's only good for offices like the Public Defenders, the Prosecutors and public-service-type clinics. It expires immediately upon bar results.

13. Have you ever found yourself wondering why, when you knew as much law as the straight-A student sitting next to you, you couldn't make the grade? Before you berate yourself for being a mediocre lawyer, ask yourself if the problem may be due to your essay-writing abilities. If you think this may be the problem, contact Margaret McNalley, dean of admissions. She has offered to meet with students to critique their essays and offer suggestions for improvement. The time you invest may be the difference between an A and a C.

So long and good luck in your future careers, folks.

Schemrich is a 4L.



A Commencement Challenge: Thank the unsung heroes

By Renni Zifferblatt
GAVEL COLUMNIST

As a natural consequence of one's pending law school graduation, there is a certain amount of reflection regarding the past three years. In so doing, it seems worthwhile to identify those forces, who have profoundly affected the lives of many students.

Of course, such entities cannot be listed comprehensively by name, for their numbers would far exceed the limits of this page. There are however, numerous spirits at work among us, heroes in their own rite, tending the fires that allow the law school community to thrive. Behind the scenes exists a network of administrators and assistants dedicated to enhancing our education. They are responsible for the resources, library holdings and support staff who benefited each of us.

As to the faculty, the immense academic wealth and accomplishment abounding in our professors is astounding. Many of us discovered when we spoke with professors, many remarkable people, willing to answer questions, and review our work.

And then there is the beloved legal writing staff, whose efforts exceed their job descriptions. They not only serve to lay the foundation for the profession, by teaching legal writing and research skills, but also leave their doors open for students seeking counsel and human contact. They nurture the heart of the law school without expectation or judgment.

In the end, I find myself regretting that I did not spend more time thanking the people who made my law school experience unforgettable. The question of how to give back loomed large until I was approached by a colleague who told me about Graduation Challenge, a program which forges a bridge between graduates and the law school. The program serves to support C-M's efforts to continue to expand its programs and assist incoming students.

Whether remaining in Cleveland or relocating, the program provides a means for graduates to invest in our school, as we become part of the legal community. It is a way to honor those whose dedication helped us achieve our skills and newfound autonomy. When your letters arrive in the mail shortly, take time to contemplate the influences that helped you achieve your goals and join in the campaign to benefit those following in our footfalls. Benevolence, compassion and kindness, let that be our legacy.

Zifferblatt is a 3L.