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Editor's Note

On behalf of The Gavel staff, I would like to welcome everyone back and to congratulate the first year students on making it through the roughest part of law school. See, everyone told you it was possible.

I was going to write my editor's note on the university's snail speed in processing our grade cards but now it seems more important to write about something of greater magnitude and effect on everyone — the tragic explosion of the Shuttle Challenger.

This event shocked everyone and was entirely a surprise to all but those most directly involved in the program who said they knew that something like this was bound to happen.

The rest of us all took it for granted that it was just another shuttle going somewhere to do something. No one could even watch the lift-off unless they tuned into PBS or CNN. The rest of the stations followed their regularly scheduled programs (I myself was watching a soap opera at the time) — until the tragic event occurred.

Seven people gave their lives in furtherance of the space program and for the benefit of the American people in general. These people should be greatly admired and appreciated and everyone grieves for them and their families.

Although this was a great tragedy for America, let us at least learn from this and not take things for granted. Sometimes we get so caught up with our own problems that we fail to realize how fortunate we are and, sadly enough, it takes a great tragedy to make us stand back and see that we take a lot of the good things for granted.

Kassia Maslowski

Kassia Maslowski
How Old Is Old Enough?

by Stacie Greene

If you thought you saw Harry Reasoner walking across the atrium, you were right. The issue of juvenile capital punishment has captured the attention of the national media. On Monday, February 3, Harry Reasoner and the crew of “60 Minutes” came to Cleveland-Marshall to interview law professor Victor Streib. Professor Streib is an expert on the subject and a strong advocate against the death penalty for criminals under the age of 18.

The hour-long interview (which Streib predicts will be cut down to five minutes) consisted of general information questions concerning social and legal aspects surrounding death penalty convictions. The segment will feature a controversial trial in Gary, Indiana involving the incident of a 16-year old teenager who murdered a 78-year old bible teacher. The segment is scheduled to be aired late in March on the Sunday before the trial begins. Presently, there are 33 juveniles on death row in the United States and Professor Streib is in some way involved in each one.

The professor sees 20-25 years of long-term imprisonment as a viable alternative to the death penalty. He feels that it isn’t rational to talk about a life sentence without parole for someone under 18 because we know that these people can change. Professor Streib described years of research justifying the reasons for capital punishment which reveal that three-fourths of the population are in favor of capital punishment but less than half are in favor of capital punishment for juveniles. Streib chooses the age of 18 because there must be a line drawn somewhere and this is the traditional age one becomes an adult. Simply, if one cannot have adult privileges, they should not receive adult punishments.

The professor conducts a great deal of research on juvenile capital punishment and sends reports to various interest groups as well as the media. The European press is also interested because the United States is the only country that executes children. By going to the media, Professor Streib is hoping to influence the public and create an awareness that the death penalty for juveniles currently exists. He sees media coverage as an added alternative to arguing before Appellate Court judges for the purpose of law reform. Through the media and testifying before legislatures, Streib advocates amending the statutes by putting an age minimum on capital punishment.

Professor Streib has also been quoted in Time and Newsweek magazines concerning this issue. He commented that students at Cleveland-Marshall don’t realize how many of our professors do work in law reform. Although Professor Streib is seen in public, he claims that what he’s doing is no different from many other professors here. They can often be found arguing before a legislature. Professor Streib encourages students to become involved as research assistants and to take an active role in current law reformation. Who knows, one day Harry Reasoner may be entering your office.

News From Downunder

by Rick Smith

Professor Jane Picker has returned this semester from her trip to Australia.

Picker ventured to the land downunder with her husband Sidney who went as a recipient of a Fulbright Research Grant. The May to October trip abroad saw Picker visit the University of Melbourne Law School where she taught a class on law and discrimination, her area of expertise.

Research was also something that Picker found time to do while at the University. She looked at equal opportunity issues in relation to Australian law and she plans to publish her findings. Picker also had some interest in the government’s policy of giving land back to the aborigines.

In comparing the differences between law classes and teaching in Australia with that of the United States, Picker noted several distinguishing characteristics. The "students are often younger," she said, adding that "originally law was an undergraduate degree," but "most (students) now combine another degree with the law degree." This combination normally takes five years. Picker said. The setting of the classrooms are "not as socratic," she said, and "there's more lecture, it's more like the British system." She concluded that the Australian method of teaching is slowly becoming more American.

Picker also had the opportunity to stop in Thailand, Burma, and India. In India she met with attorneys and visited some courts there that had cases going on that she was interested in that concerned human rights.

In previous trips to Australia Picker lectured on class action to civil procedure classes and gave a series of lectures on the law of outer space. Picker's husband fulfilled his grant by doing research on international trade in the Pacific base.
The Home Audio Recording Act: A Proposed Legislative Solution

by Gary Doberstyn

Copyright was a product of technical innovation. However, increasing technological advancements have provided the capability to make copies to an extent far beyond anything that has ever been dreamed of before. Today, that which gave birth to copyright is capable of destroying it entirely. The issues created by the continuing technological explosion therefore, necessarily encompass serious economic, social and legal considerations.

This article addresses one such issue: that of home audio taping. Specifically, it is a response to an article that appeared in the last issue of The Gavel entitled "Audio Royalty Tax Legislation". That article explained the Audio Recording Rights Coalition's ("A.R.R.C." hereinafter) opposition to proposed legislation. It contained numerous inaccuracies and misconceptions. However, before the rationale of the A.R.R.C. can be examined, it is necessary to discuss the problem and the proposed solution.

The Copyright Office, in its prepared statement to the Subcommittee on Patents, Copyrights and Trademarks ("Subcommittee" hereinafter), during a hearing conducted on October 25, 1983 ("Hearing" hereinafter), framed the problem as follows:

"Home taping is a particular example of the strains of adapting copyright, and the basic scheme of incentive reward it represents, to new technologies whose benefits are increasingly enjoyed by wider and wider sections of our population. As important as the issue of home taping is independently, it is nonetheless merely a particular expression of a general, serious and growing problem in copyright: the adaptation of legal doctrine and principle in copyright to new technologies."

Recent advances in taping technology and the increased availability of inexpensive, easy to operate, high quality recording equipment have led to an explosion in home taping. This practice costs the music industry billions of dollars and the problem is getting worse.

Audits and Surveys, Inc., one of the nation's leading research organizations, conducted a research project which addressed this problem. Solomon Dutka, the firm's C.E.O., appeared at the Subcommittee's Hearing and testified that their research revealed that: (i) U.S. consumers, aged 10 and over, were taping music or other copyrighted material at the rate of 564 million albums per year, and (ii) consumers who taped copyrighted material would have annually purchased 325 million albums had they not been able to make home tapes.

During the Hearing, Dr. Alan Greenspan, the noted economist, shed further light on the problem. He determined that home taping should be viewed as an alternative means of acquiring recorded music and fixed the estimated consumer cost of home taping at 30% of the retail cost of commercially released records. He concluded that "unless the gap narrows dramatically, we can expect that the total market of recorded music accounted for by home taping will continue to rise."

His data indicates that, indeed, home taping has been increasing at a very substantial rate. In 1972 home taping accounted for 20% of the total hours of recorded music available both from purchase and taping. By 1982 it had risen to 43%. For every 100 recordings sold, an additional 75 were home taped! Dr. Greenspan estimated that sales displaced by home taping and its influence in depressing record prices resulted in retail losses exceeding 1.4 billion dollars in 1983.

Further evidence of the tremendous growth of home taping can be found in trade figures. In 1971, 4.4 billion minutes of blank tapes were shipped for sale. By 1984, that figure had increased 345%, to 19.6 billion minutes.

The economic harm to the recording industry is obvious. More than 1/3 of its revenues are being lost to home taping. This eliminates royalties and sales income that would otherwise have been received by composers, publishers, artists, producers, back-up musicians, vocalists, record labels, retailers, distributors, rack jobbers, one stops, manufacturers, and suppliers.

There are also important public interests at stake. The economic damage that the recording industry has been sustaining has important societal ramifications. Home taping decreases investment in music because it siphons off revenues that would be spent on developing new artists. The number of albums released annually by the recording industry has declined by nearly 1/2 during the last 6 years. Record companies are forced to spread their costs over fewer releases. The dwindling percentage of those records that are sold as compared to the number of those records that are acquired by home taping creates an additional strain. Home taping significantly decreases the incentive to create music because investment in an already high risk industry will not yield the profits that it should.

Home taping also results in reduced support for less popular forms of music. Companies are unable to subsidize jazz, classical, folk, gospel and ethnic music to the extent that they have in the past. The majority of record albums released by record companies result in financial losses. This is not an industry complaint. It is a fact of life; a necessary cost of developing those relatively few acts that ultimately achieve the potential to sell millions of records. However, profits are dwindling. The industry cannot raise prices because to do so would encourage even more taping. Therefore those "investment dollars" that are available must increasingly be channeled into the support of those artists who exhibit mass market appeal.

Most importantly, home taping undermines the concept of copyright which is intended to reward creators and owners for their labors and provides an incentive to future creativity and investment. As a result, consumers of varied tastes no longer enjoy the availability of the widest possible diversity of talent and art forms.

The Home Audio Recording Act (S. 1739 and H.R. 2911) offers a practical legislative solution to the home taping problem. The Act does not seek to stop home taping. It explicitly provides that home taping for private use is not an infringement of copyright. The Act would require manufacturers and importers of recording equipment and blank tapes to distribute their products under a compulsory license. These companies would pay a royalty based on the sales of their products. The royalties would be paid into a pool from which copyright owners, creators and others contributing to the
master recordings would be compensated. The Act would also preserve the integrity of the American copyright and its essential incentives to creativity.

The issue is not whether consumers violate the copyright law by taping a record for playback on their car stereo or “walkman.” The issue is, rather, whether manufacturers of audio recording equipment and blank tapes should be unjustly enriched from the sales of devices which displace record sales at the sole expense of those who are rightly entitled to royalties from those sales. The sales of these devices are diverting huge sums of money from copyright owners. These manufacturers are dependent on copyrighted music and records, without which their products would be merely mazes of plastic, wires and chemicals. These manufacturers sell their products by encouraging consumers to record copyrighted music. "Beat the system, copy your own cassettes" and "Save money — copy a friend's cassette" are examples of advertising methods utilized to encourage consumers to buy recording equipment that is designed to make a cassette copy at the same time the original cassette is being played; i.e. dual cassette recorders. In short, this legislation would require manufacturers of recording equipment and blank tapes to pay a royalty in order to offset the economic and social damages that are caused by the sale of their products.

Now let us turn our attention to the A.R.R.C. article in opposition to the Home Audio Recording Act. The following comments need to be made.

First and foremost, this legislation does not propose a consumer tax on the sales of audio recording equipment or blank tape. The use of the word “tax” in this context is highly objectionable. The notion that the recording industry must prove that “more money is needed to fulfill the constitutional purpose of copyright” is without merit. Copyright provides the incentive to create music by protecting owners’ rights to receive the full commercial value of the copyright as determined by general public acceptance. The A.R.R.C.’s reasoning is based on the contention that copyright owners are already receiving enough money. A similar line of reasoning would lead one to conclude that copyright protection should exist only for so long a time that is necessary for the copyright owner to collect “enough money.”

While it is true that record sales recently have increased, it has already been estab-

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Lunch With The Dean

by Lynn Howell

Dean Bogomolny took time out of his schedule on Tuesday Feb. 4th to meet informally with students during a "brown bag" lunch session. Students were able to pose random questions to the Dean. Although the crowd was small, their questions were quite representative of the student body's concern.

SBA Vice President Eddy Kraus opened the questions by asking the students if they would like to have an open forum, without any administrators present, to discuss the problems with the Office of Career Planning. An overwhelming number of the participants, including the Dean, felt it would be a valuable function to host. That question triggered others concerning the Office of Career Planning.

Gavel Editor Mary DeGenaro asked the Dean why, during the practice interviews offered by the placement office did they only have 20 time slots open, which were mostly filled with the top ten percent of the class when the bottom half of the class needs more help.

In response to DeGenaro's question the Dean stated that students are only provided with opportunities by the school and they must go out and sell themselves. He also mentioned that although the Career Planning office's statistics as far as placement are superior, he doesn't know how the students feel about its programs and where it needs improvement. In regards to the practice interview query, he couldn't explain why so few time slots were open, since the alumni who do the interviewing during those sessions are always willing to help at any time.

The Dean was questioned about the recruiting process of students. He responded by saying that it is designed to get information out to the students so that they can make an informed choice since there are nine law schools in Ohio. The on campus recruiting program of Cleveland-Marshall visits schools in Pennsylvania, New York (Southwestern section), and the Indiana border area. In addition C-M also recruits in Atlanta, Georgia for minority admissions. C-M also hosts programs for Pre-Law Advisors and Pre-Law Day at the school.

Cost and location were cited by the Dean to be the overwhelming reasons why students have chosen Cleveland-Marshall.

He noted that Cleveland-Marshall has the second largest law library in the State and a student/faculty ration that is one of the best in the nation.

DeGenaro asked the Dean "Why, in the recruitment process, doesn't the administration match up an applicant with a student and let them attend classes for a day?" The Dean took that as a recommendation for the admissions committee to work on, although members of the SBA are currently called in when the Dean's staff is too overwhelmed to give tours to prospective students.

A question from the floor asked the Dean if some arrangements could be made with the business community that hires students through the placement office. Since lately a few clerks have been hired by local firms to work as subcontractors instead of as employees of the firms, they have to file their taxes quarterly, which is quite a burden. The Dean noted that although those situations are bad, we cannot discourage the marketplace from hiring C-M students since we do not control the market in the city. The Dean feels that if communication lines were opened back up with the Dean of Case Western Reserve Law School, some recommendations to employers could possibly be negotiated. But that will have to wait until the new dean is installed there. He did stress that the administration will definitely talk with employers if they find that there has been discrimination against minority students.

Concern from the students about the grading procedures at C-M was voiced. Many felt that the professors here are grading too low and hurting the job prospects of the students who have to compete with other area law students who do not face such stringent grading procedures. Students asked the Dean to try to implement a more uniform grading policy and try to explain the problem to the business community that hires C-M students. The Dean directed these students to seek information from the Office of Career Planning.

The Dean stressed his three priorities for Cleveland-Marshall, which are: recruitment, fund raising and curriculum.

The recruitment phase is needed to keep the student base strong since the last class admitted had both lower LSAT scores and undergraduate GPAs than their predecessors. Every law school in the state had a drop in their number of applicants last year.

The Dean's concerns with the weaker class are numerous. He fears that there will be more academic failures this year. In addition, that will mean the bottom half of the class will be larger and it will make it tougher on the faculty to teach a slower class. The Dean also noted that students with a 2.5 grade point average or above have a 90% chance of passing the bar exam. This year a larger number of LCOP students were admitted. He said that although the administration is providing these students with tutorial programs, the attendance is poor.

Fund raising is the Dean's second priority for the law school. The most pressing needs for the school are lighting for the gloomy library, more money for scholarships and money for development of the skills curriculum. He pointed out that although the school is state supported, the State's resources for law schools is too spread out with a state law school in every major city in the state.

Development of the skills curriculum is one of the major improvements the Dean would like to make in the school's curriculum. This program would give students the basics in trial tactics, negotiating tactics and alternative dispute resolution skills.

In addition to the skills curriculum, Bogomolny is looking into the reorganization and addition of a few classes in the Corporate Finance area and providing a rough cluster of classes for the students wishing to pursue general practice. Finally the Dean stressed that many students do not take advantage of his "Open Door Policy." He stated that his staff is instructed to give students the first priority on openings in his schedule over staff members. His parting words were "I know parking is terrible but that is something I cannot do anything about; I can't even get the President of the Alumni Association a parking place."
C-M Scholars Recognized

by Lynn Howell

The outstanding scholars of the Cleveland-Marshall classes of 1985, 1986 and 1987 were honored during the Academic Honors Convocation on January 23, 1986.

During the ceremony, Leon Plevin, a 1957 graduate of Cleveland-Marshall and a partner in the firm Nurenberg, Plevin, Heller and McCarthy, was named the first recipient of the Dean's Achievement Award. The award was created to honor individuals whose service to the college has been extraordinary. Dean Bogomolny said, when presenting the award, "Leon M. Plevin has exemplified the spirit of the Cleveland-Marshall College of Law through his practice of law, commitment to the community and outstanding dedication to the College." Plevin served as President and Trustee of the Cleveland-Marshall Law Alumni Association. He was instrumental in establishing a scholarship fund which supports three full-time students who do not have the financial resources to pursue a legal education.

Randall Kender, a 1985 graduate, was the leading award recipient. He received the Faculty Award for the highest academic grade average in the class of 1985, the West Publishing Company Hornbook Award, the Suggs J. Garber Award for the highest academic grade average in courses on business organizations and the American Jurisprudence Awards for both Administrative Law and Agency and Partnership. Kender is currently an associate with the Chicago firm of Jenner and Block. He was attracted to the firm because "it offered me with the most opportunity to work with pro bono litigation." Within one month of being admitted to the Federal Bar, Kender argued before the Federal Court of Appeals in a case involving pro bono litigation.

Two current C-M students, Charles Hannan and Keith Pryatel, received five and four awards respectively. Hannan and Pryatel both received the Charles Auerbach Awards for outstanding students in the Law of Evidence and the American Jurisprudence Awards in Evidence.

The Judge Lloyd O. Brown Scholarship Fund, Inc. awarded two scholarships to outstanding students to further their academic careers. The recipients were Lori Harris Hall and Yolanda Clancy. Judge Brown was honored to announce that the new chairperson of the Scholarship Fund, Betty K. Pinkey, a senior attorney for the East Ohio Gas Company and a 1976 C-M graduate, would be presenting the awards.

The Howard L. Oleck Awards are presented for distinguished legal writing by a student and a faculty member. Colleen Battle was the student recipient and Professor John Makdisi, who published three major articles in the past year, received the faculty award.

The W. E. Baldwin Awards for the most deserving graduate of the Class of 1985 was Clare McGuinness. Professor Sierk, Chairman of the Awards and Competition Committee, stated that students receiving this award had overcome an unusual handicap while going through law school. In McGuinness' case, she was raising a large family which included several adopted children from different cultures.

We extend our congratulations to each award winner and commend them on their academic achievements. The complete list of recipients are:

- Randall F. Kender
- Mary P. Culler
- Clare I. McGuinness
- Kevin P. Hallquist
- Randall F. Kender
- Kevin P. Hallquist
- Kenne B. Switzer-Rakos
- Sandra L. Denman
- Mark C. Silbiger
- Karen Rubin
- Francine K. Rapp
- Elizabeth V. Swenson
- Kenne B. Switzer-Rakos
- Colleen P. Battle
- John Makdisi
- Kim Aumiller
- Shawn R. Russell
- Louis S. Adelstein
- Michael P. Brown
- Mary F. Downey
- Barbara J. Ragle
- Kevin J. Breen
- Patricia A. Fisher
- Kevin P. Hallquist
- Charles E. Hannan
- Paul M. Herdeg

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Eli Coury as Fernando Lamas giving the “You look marvelous” commencement address.

by Mary Ann Yencho

Happy hours are always a welcome break from the tensions of law school but there was something special about the one on January 30th. The excitement and tension of the gathered crowd filled the atrium and filtered into the surrounding classrooms as faculty, students and friends anxiously awaited the Follies.

The follies were an SBA sponsored event that satirized not only the law school and its professors but poked fun at the students and staff.

With no introduction, the evening opened with a skit entitled “Crimebusters.” It centered around a robbery at Fran’s coffee shop. The Crimebuster team included Sergeant Crow (Marc Strauss), Stu (Eli Coury), F.B.I. agent Sheldon (Dave Sheldon) and Professor Streib (Dennis DiMartino). The acting and intensity of the scene set the stage for a fun-filled evening.

After the opening act, Eddy Kraus, as host, welcomed the students, faculty and guests. Eddy’s talent was seen many times throughout the evening as he played various roles. Eddy also had the “honor” of having a skit performed about himself.

Individual talents emerged throughout the evening that surprised the audience. Gary Cowen revealed his stand-up comedy talent while Chris Fortunato displayed his musical talent in a tribute to Professor Goshien. Chris was given a much-deserved standing ovation for his performance.

The acts and laughter continued throughout the entire evening with scenes that were creative and innovative. For instance, the “Family Feud” creatively staged a feud between the families of Jones Day and Legal Aid.

Although Legal Aid won, Jones Day informed Richard (Dean Colvos) that they will appeal. The hecklers in the audience got a little out of hand but the actors stayed in character and did a great job.

Today’s rage on rap was not forgotten as Greg Klucher and Gail Perry rapped about law school. They rocked to the beat as Marc Strauss and Eddy Kraus added a “touch of class” in the background as rap dancers. Marc and Eddy were appropriately attired in black tie, black tuxedo jackets and, of course, Hawaiian shorts and white sneakers.

In her orange and white uniform, Fran, (Deanna DiPetta) with coffee pot in hand, made continuing appearances throughout the evening. She portrayed not only herself but a bachelorette from “The Dating Game” and “Franna White” in the “Family Feud.”

All of the acts were terrific and the students who portrayed the professors did an excellent job of capturing the professors’ little idiosyncrasies. We won’t forget Dennis DiMartino as Professor Goshien, Professor Streib and Professor Gelman; Jim Moore as Professor Willey; Ann Mandel as Professor Davis; Eli Coury as Professor Garlock and Bob Myers as Dean Bogomolny. It is safe to say that the fun was only fun and that no one was offended.

The evening was topped off by an encore performance when Eli Coury, as Fernando Lamas, gave the commencement speech... and just let me say, “darling, you were marvelous.” He received a well-deserved standing ovation. I believe that the standing ovation was not only for him but was meant for all of the actors, actresses, directors, stage managers and technicians who made the follies a success.

The Twelve Days of Law School.
Crimebusting — Dennis Di Martino, Eli Coury and Marc Strauss.

First year final exams. Ann Mandel was so caught up with Mickey Davis' Torts class that she wore his exact first day outfit — right down to the brown Gucci's — to the exam.

Dating Game winning bachelor, "Pucker Lips Goshien."

Goshien lectures first year exam victims about the only class — Contracts.

The Law School Rap by Greg Klucher and Gail Perry with the Solid Justice Dancers Marc Strauss and Eddy Kraus.
Family Feud’s Jones Day team member Jane Flaherty reluctantly lets Richard give her cheek a kiss.

Legal Aid team members.

WHAT A CAST!

Final bow of the cast. Goodnight Fran!

GOOD SHOW!
The Risks of Counseling

Let's say a student tells her school counselor that she is abusing drugs. The counselor needs to decide if he should try to help the student, refer her to a drug treatment program, or notify the authorities. In making his decision, the counselor needs to take into account the very real possibility of a lawsuit.

Unlike psychiatrists, in most states pupil personnel specialists don't have privileged confidentiality with their clients, O'Dell noted. In fact, Ohio and many other states have a professional disclosure law that requires counselors to report information about possible harm to someone.

He mentioned a recent case in California in which a university counselor was told by a client that the client was about to kill his girlfriend. The counselor called the police, who questioned the suspect and turned him loose. The young man killed his girlfriend and the counselor was sued because, although he notified the police, he didn't notify the victim or her parents.

Such cases, understandably, make counselors nervous, said O'Dell. "The issue if confidentiality is critical — a counselor is caught between professional ethics and the law. Building a relationship of trust with a student is essential, but it's the law that a counselor must break that trust if it appears to be a dangerous situation."

One area in which pupil personnel specialists are legally required to report confidences is in cases of child abuse. In Ohio and some other states it is a felony not to report such an incident. Other legal issues for pupil personnel specialists include teenage sexuality, pregnancy, abortion, and drug and alcohol abuse.

Dr. O'Dell said that another area that raises legal questions is mainstreaming. In 1977 it became law that every effort must be made to mainstream (integrate) handicapped children into public school systems. Pupil personnel specialists must keep track of and reassess handicapped students and provide individualized lesson plans for them.

He said many school counselors spend most of their time dealing with mainstreaming issues, even though few were trained to specialize in handicapped population. His book addresses many of their concerns.

"There must be a great need for this sort of legal sourcebook," said Dr. O'Dell. "There were none on the market when we started work on it, but now there are two other books which deal with almost the same legal issues."


According to Frank L. O'Dell, associate professor of education at Cleveland State University, school counselors are increasingly vulnerable to lawsuits. He recently co-authored a book, "Legal Sourcebook for Pupil Personnel Specialists," to help clarify some sticky legal and ethical issues.

"I strongly advise liability insurance for counselors, although I don't want people who work in school systems to become too paranoid," said Dr. O'Dell.

"There are no black and white answers to the legal issues that confront pupil personnel specialists. Working in these gray areas, some develop the ostrich syndrome — confronted with a stressful situation they bury the problem and become immobilized. Others adopt the bull syndrome. They assume they are above the law and barge forward without due consideration."

Pupil personnel specialists include school counselors, guidance directors, psychologists, nurses, visiting teachers, and social workers, Dr. O'Dell said.

O'Dell is a former school counselor and has been a consultant to numerous school systems in planning, implementing, improving, and evaluating their guidance programs. He is acting chairperson of CSU's Department of Educational Specialists.

Co-authors of the book are Jerrold D. Hopfengardner, associate dean of the University of Dayton School of Education; and Glenn W. Soden, attorney-at-law and director of government affairs for Nationwide Insurance Companies.

Legal Advice: Tax Law

by Darlene Amato

On the 29th of January, law students had the opportunity to listen to William Hamann lecture on the practice of tax law. Hamann is a graduate of Cleveland-Marchall. He commenced his career in this field of law while employed by Cleveland Trust Company, working in its tax department. Hamann did not have much accounting experience prior to accepting this position and has the opinion that most attorneys can manage the work load without formal financial training. He was retained for five years by an established firm in Cleveland. Since this time, Hamann has founded his own tax practice, at first with the assistance of a partner, then as an independent. Hamann commented that he enjoys working alone; he would never consider practicing for a large firm or a partnership again because he feels a sense of independence.

Hamann stressed a few fine points of a successful tax practice. First of all, one should take time to know the client; get on a one-to-one personal basis with them. Do not hesitate to apply "nuts and bolts" lawyering and do your own research and footwork. He also mentioned that a self-employed attorney should always be aggressive in regard to saving the client money and, furthermore, one should always be on the lookout for new business relations. He emphasized that these practices will produce a higher income in the closing of the case. After the tax season is over, Hamann lectures to numerous groups in the business community on the topic "Benefits of an Attorney Compiling Your Tax Statements." By establishing a link with a variety of people, his opportunity for new clients is increased.

When Hamann acquires a new client he immediately "sets the ground rules." He states that most clients employ an attorney with unrealistic expectations that often cannot be met. These people have the belief that the attorney is a miracle worker. Therefore, exact fees must be discussed within the first fifteen minutes, as not to waste the time of the client or the attorney. Hamann practices with a flat retainer fee, followed by additional charges as each case requires. He stressed that this understanding must be in writing. Along this same line of thought, Hamann emphasized that an attorney should always protect himself. A good example would be having the client complete a tax statement questionnaire. This can be used as proof that the figures used in compiling a statement were based on the information the client presented, not by the attorney's work. Therefore, if an audit is ever taken, the attorney is protected against the client accusing him of changing figures. Hamann concluded that an attorney should be careful with all clients; as human nature is a part of all of us, everyone has the potential to fabricate. Thus, an important measure to be considered is that of protecting oneself from the unknown.
by Bill Roelke

The purpose of this article is to acquaint you with a disease that is increasingly becoming a subject of medical malpractice litigation. The disease is called retinopathy of prematurity (ROP), although it was called retrolental fibroplasia (RF or RLF) until a few years ago, and it is an unusual eye disorder that leads to blindness in premature infants.

When a baby is born prematurely, its eyes are still developing and blood vessels continue growing into the retina. The retina is the innermost coat of specialized nerve cells at the back of the eyeball that capture light rays and convert them into electrical impulses that can be carried by the optic nerve to the brain. These blood vessels grow from the center of the retina to the outside edges, and their growth in premature infants sometimes is disordered.

In affected infants the disease begins when abnormal blood vessels form in the retina. These twisted, abnormal blood vessels cause the retina to swell and begin to detach from the back of the eye. The retina eventually peels off completely and the infant then is blind.

Almost premature babies suffer from respiratory distress syndrome, a condition in which the lungs are unable to function properly without assistance. Oxygen is commonly administered to premature infants to assist lungfunctioning thereby sustaining life and preventing brain damage. However, a large study by the National Institutes of Health showed that the increase in ROP in the 1940's and 1950's coincided with the widespread advances in the development of life-saving techniques in treating premature infants, all of which centered around the liberal use of oxygen. Thus, oxygen was implicated as the culprit in ROP.

The medical profession was then confronted by a terrible dilemma: the antitode to two problems, death and brain damage, appeared to be the cause of another, blindness. One court, commenting on the complexity of the problem, spoke of the anxiety of those physicians who "tried to steer their tiny patients between the Scylla of blindness and the Charybdis of brain damage." (May v. Dafoe, 1980, 25 Wash. App. 575, 611 P. 2d [1275].)

The routine use of oxygen was then reduced by physicians in response to the NIH study. However, the incidence of ROP only declined somewhat, hence it is clear that the excessive use of oxygen is not the sole cause of ROP today.

A study done at the University of California at Los Angeles suggests that out of 20,000 infants weighing less than 3.3 pounds at birth in the United States each year, approximately 2,000 would be partly blind and more than 500 would become legally blind. These statistics are not reliable, however, partly because of the reluctance of medical scientists to speak out about the disorder for fear of attracting the attention of lawyers and medical malpractice suits.

Lawsuits dealing with the subject of ROP typically involve, as defendants, either physicians in medical malpractice actions or manufacturers of hospital infant incubators in products liability cases. A study by the Boston firm of Goodwin, Proctor, and Hoar indicates that the success rate of plaintiffs in the malpractice cases is around fifty percent. This figure is unusually high and is attributed to the dramatic impact of a blind baby and the fact that it is still easy to obtain expert testimony that excess oxygen causes ROP, even though that may hold true for only a very few occurrences of the disease.

ROP poses serious problems to the medical community from both medical and legal viewpoints and no answers to these problems are forthcoming. However, in order to afford some protection against lawsuits, physicians are being urged to publish in the medical literature that there is no standard of care for very premature babies and that short of preventing premature births, there is no known way to prevent ROP.
C-M Scholars Recognized

continued from page 7

Guardian Title & Guardian Agency Inc. Award
Best Academic Record in Advanced Courses in Real Property Law

Judge James C. Connell Award
Outstanding Students in Criminal Law

Sindell Tort Competition Prize
Best Papers in Torts or Evidence

Spangenberg Trial Practice Prize
Outstanding Students in Trial Practice and Procedure

Sugs I. Garber Award
Courses on Business Organization
Highest Academic Grade Average
Second Highest Academic Grade Average

Wall Street Journal Student Achievement Award
Graduate with Highest Academic Grade Average in Courses on Business Associations and Commercial Law

B.N.A. United States Law Week Award
Most Satisfactory Academic Progress in Final Year of Study

Carl B. Stokes Achievement Award
Outstanding First Year Minority Student

William H. Thomas Foundation Awards
Most Deserving Members of the Cleveland-Marshall Chapter of the Delta Theta Phi Law Fraternity

William K. Gardner Awards
Outstanding Students in Civil Procedure

Wilson G. Stapleton Memorial Fund Award
Student of Merit in Property

Richard C. Schafer Memorial Award
Outstanding Clinical Program Student

Bank-Baldwin Clinical Program Award
Outstanding Clinical Program Student

Federal Bar Association Awards for Excellence in Constitutional Law

American Bar Association Book Award
Outstanding Student in Local Government Law

American Counsel Scholarship Award

Summer Seminars Abroad

Students who wish to study in Italy, Austria and France next summer may enroll in the 1986 Summer Seminars Abroad program sponsored by The Dickinson School of Law. Credit programs will be conducted in Florence, Italy, Vienna, Austria and Strasbourg, France during the summer of 1986. Students enrolled in law schools accredited by the Association of American Law Schools or the American Bar Association are eligible to apply for admission to these programs.

The first summer program involves four weeks of study in Florence, Italy, beginning June 7 and concluding July 4, 1986. European scholars and practitioners will work with members of The Dickinson School of Law faculty to teach courses in comparative law, comparative taxation and comparative tort and compensation law. Classes will be taught in English and will be conducted at the University of Florence. Each of the three courses is rated at two credit hours and involves 28 class hours of instruction and a two-hour examination. Registrants may enroll for a maximum of four credit hours.

The second summer session involves two consecutive two-week sessions, the first in Vienna, Austria beginning July 6 and the second in Strasbourg, France beginning July 20 and concluding August 1, 1986. During the four weeks accredited courses in international business law and international transport law will be taught by members of the Dickinson Law faculty and international legal scholars and practitioners. Facilities of the University of Vienna School of Law and the United Nations Commission on International Trade Law in Vienna and the University of Strasbourg School of Law and the Council of Europe in Strasbourg will be made available to registrants. Each of the two courses is rated at two credit hours and involves 28 class hours of instruction and a two-hour examination.

For additional information call or write Dr. Louis F. Del Duca, Associate Dean for Advanced Legal Education, The Dickinson School of Law, 150 South College Street, Carlisle, Pennsylvania 17013, telephone: (717) 243-5529.
Recording Act
continued from page 5

lished that: (i) much of these increased sales are the result of the investment in a comparatively few "hit acts;" (ii) the number of record releases of new artists in constantly declining; and (iii) home taping prevents the price of records from increasing so as merely to keep up with inflation. The result is that the industry's profits remain depressed. According to Dr. Greenspan, the impact of home taping on the recording industry is as evident today as it was in the industry's worst period in the early 1980's.

The A.R.R.C.'s contention that home taping stimulates record sales is misleading. The Audits and Surveys, Inc. research indicates that of all of the reasons people buy records, home taping is the least relevant factor. 93% of all records are purchased for reasons that have nothing to do with a consumer's exposure to a home tape recording.

The statement that over half of all home taping involves no prerecorded music is simply not true. Surveys and Audits, Inc.'s examination of the home-recorded tape inventories of home tapers showed that over 84% of the tapes contain music or other copyrighted material.

The unfairness of a royalty for "blank tapes used for office dictation, private reporting services, and educational institutions" is reflected in the proposed legislation which exempts manufacturers from paying royalties on equipment and blank tapes that are sold for such purposes. Furthermore, the sales of tapes which are below an acceptable standard for musical reproduction, yet adequate for recording speech, would be exempt from royalties.

The A.R.R.C. contends that such a royalty would create a new regulatory bureaucracy. In fact, this system is already established. The copyright royalty tribunal functions in a similar capacity with respect to the determination, collection and distribution of royalties paid by juke box vendors. Furthermore, private licensing organizations have been collecting and distributing royalties derived from the public performances of musical compositions in a similar manner for decades.

It would seem that the A.R.R.C. primarily represents the interests of the manufacturers of home audio recording equipment and blank tapes. There are only about 150 such companies and the overwhelming majority of them are Japanese. In the past, they have been unwilling to discuss the matter with the recording industry, preferring instead to continue to divert royalties from copyright owners into their own pockets.

In the recent "Betamax" case, the Supreme Court held that the home taping of audio-visual material for private use was not an infringement of copyright because much of home taping is for the purpose of time shifting. Although the court did not address the issue of home audio taping, it did identify two relevant components of the problem: (i) a key element of copyright infringement is the ability to show harm, and (ii) any further resolution of the problem would have to be legislative. Sony Corp. of America v. Universal City Studios, Inc., 104 S. Ct. 774. The significant harm that the music industry continues to sustain has been clearly established. Furthermore, the proposed solution that the Home Audio Recording Act affords is a proper response to the problem.

This proposed legislation has considerable support. The Copyright Office supports the bill, believing that it will continue to allow the public to record at home, while at the same time, allow copyright proprietors to be compensated for this use. The Coalition to Save America's Music also is in support of this bill. It represents the interests of the entire music community and encompasses dozens of private and professional organizations whose livelihood depends on the concept of copyright as well as those citizens who regard intellectual property rights as important public interests which must be safeguarded.

C-M Scholars Recognized

Ralph K. Frew Scholarship Fund
Outstanding Students in Labor Law and Industrial Relations

Judge Lloyd O. Brown Scholarship Fund Inc.
Scholarship Awards to Deserving Minority Students to Further their Academic Accomplishments

Martin E. Blum Law Scholarship
For First Year Student Provided by Cuyahoga County Bar Association Foundation

Nathan Burkan Memorial Competition
Sponsored by American Society of Composers, Authors and Publishers (ASCAP)

Keith L. Pryatel
Amy F. Becker
Jean M. Gallagher
Jon F. Gray
Diana Jankowski
James M. Stone

Yolanda L. Clancy
Lori Harris Hall

Rochelle L. LoPiccolo

Richard W. Bieman
Law Word Search

by Sandi Kowiako

The words appear horizontally, vertically and diagonally. Find and circle them. The leftover letters spell a message.

ADIRALTY
AGENCY
ASSAULT
BONA FIDE
BRIEF
CARDozo
CASE
CIRCUIT
CIVIL
CLERk
CODE
COMMERCE
CONTRACTS
COPYRIGHT
CORPORATION
COUNSELOR
DIVORCE
ERIE
EVIDENCE
FEDERAL
FRAUD
GOOD FAITH
IRC
ISSUE
LAND
LEARNED HAND
MALICE
MOOT
MOTION
NEGLIGENCE
NOTICE
PLAINTIFF
PROBATE
PROCEDURE
REPORTER
REVERSE
SUPREME
TAX
TORTS
TRADEMARK
VERDICT
WILL

ECROVIDECNEIVEAC
ESCERECCREMHOCDR
NSASALTNCEILAM
OTCXXETAENCYEIK
IWZDRACRXTBCPRE
TAURREOPERORAC
ARNTTWONTRIDOMHLN
RTSEISTUEUBEFEET
ONELBIADFRADECFCYG
POLUMMTETALRIIEI
RCCOCACHREADTTLU
OIRTOPENTURLNOSG
CIIRSTDKDEAWINSE
COPYRIGHTVNASAVIN
NASEHTIAFDOOGLNIA
EDIFANOBPEMERPUSC

RES PENDENS
Parking Update

All students, faculty and staff must be registered to park on campus. Registration for permits and decals will take place in the Parking Department located in the Chester Building. You must have a valid University identification card, know your license plate number and pay any outstanding violations to register your vehicle. Permits and decals for fiscal year 1985-86 will expire June 30, 1986.

The Parking Department will maintain operating hours of 8:00 a.m. to 8:00 p.m. Mondays and Tuesdays; 8:00 a.m. to 5:00 p.m. Wednesdays, Thursdays and Fridays. During the first week of winter quarter, hours will be 8:00 a.m. to 8:00 p.m. Monday through Thursday; 8:00 a.m. to 5:00 p.m. Friday. The University Parking Facility has a parking attendant on duty at the E. 21st Street exit to give change, answer questions and accept payment for fines. The attendant is on duty from 7:00 a.m. to 8:30 p.m. Friday. A Parking Department employee is available Saturdays to assist motorists from 9:30 a.m. to 5:30 p.m.

The upper level of the Main Classroom garage is reserved for authorized faculty only on weekdays until 3:00 p.m. To park on this level, your vehicle must display a special faculty sticker in addition to the daily usage decal or valid permit. Lot “W”, located on the east side of E. 21st Street, north of Chester Ave., also requires the special faculty sticker.

Job Openings: Law Library

Jobs are available in the law library for work-study qualified students. Day, evening and weekend hours are available. The starting salary for law students is $3.75 per hour. Contact Ms. White or Prof. Pope in the law library, 687-2250, 8 a.m. — 5 p.m. or by appointment.

continued

Answer to puzzle:

Next to the bar this was a snap
RES PENDENS
continued

CSU
Winter Film Fare

The film offerings slated for showing during the winter quarter at Cleveland State University are a scream. The CSU Campus Program Board has lined up a series of horror movies that should slake the thirst of any fan of the cinematic genre.

All of the films will show on Fridays at 8 p.m. and 12 midnight, except for the February 14 film, which will have a midnight showing only. Admission is $2. The schedule includes:

January 24 — The Hunger (1983) — Catherine Deneuve and David Bowie are two vampires who are out for blood, and Deneuve has a taste for Susan Sarandon’s.

January 31 — Frenzy (1982) — Alfred Hitchcock does his darndest to stir up some in this British film.

February 14 — Repulsion (1965) — Catherine Deneuve would rather murder than mother the men in her life in Roman Polanski’s golden oldie about a wacky loner.

February 28 — Burnt Offerings (1975) — Betty Davis, Karen Black and Oliver Reed deal with a voracious villain as villain.

March 14 — Spring Break (1983) — Eat your heart out, Annette Funicello, wherever you are. Here’s a sand, surf and sex movie featuring Corinne Alphen, a former Miss Penthouse, in a mindless romp with a gaggle of gawking guys.

For more information about the winter film series, call the Campus Program Board at 687-3876.

Delta Theta Phi

Delta Theta Phi is proud to announce the initiation of 23 new members to the Ranney Senate. The initiation took place on January 18 in the court room of Judge Manos in the Federal Court Building. The new members are: Mark Adams, Mark Barbour, Thomas Bollenbacher, Paul Caputo, Timothy Carey, Kathleen Donnelly, Michael Ertle, Catherine Gillette, Theresa Haumann, Kassia Maslowski, Brian Morgan, Patrick Murphy, Lisa Obert, Ross Paul, Patrick Phillips, Elizabeth Scanlon, Debra Sewell, Gregory Spiros, George Wick, Jonetta Kapusta, Cynthia Hackbirth, Naomi Godbe, and Paul Monahan. The Ranney Senate has many events planned for the Spring Semester, and will be announcing them on their bulletin boards across from Fran’s.