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Speaker:

Barbara Babcock

by Roman Mironovich

Professor Barbara Allen Babcock visited C-M on April 4th and 5th as the 27th and final visiting scholar of the year in the C-M Fund Visiting Scholars Program. Prof. Babcock was director of the Public Defender Service of the District of Columbia from 1968 to 1972. In this post she defended over two hundred persons charged with serious felonies. She joined the law faculty at Stanford Law School in 1972 and has been there since then, except for a two-year appointment as Assistant Attorney General in the Civil Division of the Department of Justice during the Carter Administration.

During her visit at C-M, Prof. Babcock conducted Civil Procedure class on April 4th in the Moot Court Room on "The Ends of Civil Procedure—Due Process." The following day at 12 noon she delivered the 27th C-M Fund Lecture. The lecture was entitled "Defending the Guilty" and it drew a large gathering to the Moot Court Room.

Prof. Babcock's presentation centered on a question that she has been asked many times and has never fully answered and explained: "How can you defend a person that you know is guilty?" Her talk gave the audience an interesting perspective on this often-asked question, and the depth of her experiences and research in this area took the listeners beyond the standard cliche answers of: "It's not for everybody" and "It takes a peculiar mind set, body, and soul."

The reasons for defending the 'guilty' client were presented from both the view of the lay public and that of the legal profession. Prof. Babcock categorized lawyers who assume the 'guilt' into three interesting groups: the flamboyant attorneys who take the most lucrative cases (the public perception of defense attorneys is primarily from this group), the hustlers and the hacks who use the system and the families of the client to make as much money as possible, and the attorneys in public defender programs who are mostly overworked and unrecognized.

After listing more than eleven possible reason for defending the guilty, from the "garbage man's reason — it's a dirty job, but someone has to do it," to the "egotistic reason — it's not as boring as other types of legal practice and winning just one case gives great significance and prominence," Prof. Babcock gave the audience the reason of the form of an individual case. The case she presented brought out the real reason for defending these clients: the service provided to the individual in an ethical and professional manner, and the important role of our adversarial process.

The professional isolation of the defender of the 'guilty' and the need for the legal profession (through various legal organizations) to become more involved in defense work were several other key points presented by Prof. Babcock. Her highly theoretical presentation referred us to the many shelves of works that have been published on this difficult area of defense practice. This area of practice that she has thoroughly researched is highlighted by the one of fifteen biographies on Clarence Darrow (1857–1938), the brilliant defense lawyer and orator. Referring to his great talent in communicating to juries the societal problems that had impinged on the 'guilty' which Darrow defended, Prof. Babcock noted that although many areas of his great summations wouldn't be allowed in today's courts—his unique and highly effective methodology of defending the defendant is still with us. She concluded her presentation by quoting Darrow on defense of the guilty and justice: "that the causes of crime are largely unknown... and in the end we share a common humanity with the accused...

From the exuberance and thoroughness of her presentation, one could easily see why Prof. Babcock won the Hurlbut Award for excellence in teaching (1981). Those in attendance at the lecture gave Prof. Babcock a lengthy ovation for her stirring presentation on the adversarial process and the defense of one who is guilty.

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A CHINESE COMMUNIST CRITIQUE

by Howard L. Oleck
CSU Distinguished Professor of Law, Emeritus

Most of the people of the world now live under Communist or Socialist or other totalitarian forms of government. Whether Americans like it or not, we seem to be losing the worldwide struggle for "the hearts and minds" of the peoples of the earth. The reasons for this state of affairs are many and various, but there is one leading reason—the picture of the U.S.A. that exists in the minds of most people throughout the world. Surely we are fools if we ignore that picture. We would be wise to try to see ourselves as others see us.

In September 1982, I happened to be in Peking, as a tourist, when the Communist Party Congress of the Peoples Republic of China was meeting. That Congress revised the Constitution of that country, and the revisions were ratified in December. When I read the newly amended Chinese Constitution it occurred to me that it would be interesting to try to compare it with the U.S.A. Constitution. The Chinese is the latest form of copying of our Constitution (by way of adaptation of the Soviet Constitution). First, as a dedicated Communist might do, let us see what our Bill of Rights seems to be to a Communist:

A COMMUNIST LOOKS AT U.S.A. CIVIL RIGHTS

First Amendment says
1. Freedom of religion: "Any Faker can start a religion, as a racket," says the Communist.
2. Freedom of speech: "Unrestrained libel and slander, especially of leaders," says the Communist.
4. Right of peaceable assembly: "Mob rule, led by self-appointed honchos, is encouraged," says the Communist.
5. Right to petition the government: "Government by lobby, bribery, and perversion of democracy," says the Communist.

Second Amendment says
Right to bear arms: "Fifty or sixty million handguns, and the worst murder and violence rate in the world-wholesale butchery every day," says the Communist.

Third Amendment says
No soldiers are to be quartered in private homes in peacetime: "This is eighteenth century military doctrine, out of date and irrelevant today," says the Communist.

Fourth Amendment says
1. No unreasonable search and seizure: "A fine protection for criminals, forbid­ding police to produce the drugs, weapons, and other evidence of known criminals' operations; a law that treats the police as criminals rather than the criminals," says the Communist.
2. Warrants to be issued only on probable cause: "Again a protection for criminals, handcuffing the police, leaving free criminals known to be guilty, and making sophistry the rule of law," says the Communist.

Fifth Amendment says
1. Indictment must be by grand jury in serious crimes: "This is hopelessly slow, clumsy and expensive," says the Communist.
2. No double jeopardy: "Even proven crime goes unpunished, under this rule," says the Communist.
3. Nobody to be compelled to witness against himself: "A hopelessly technical rule, barring clear and even confessed proof of guilt," says the Communist.
4. Due process of law: "Mind boggling sophistry and hair splitting are made the norms in enforcing law; wonderful for evildoers," says the Communist.
5. Compensation must be paid for property needed by the public: "A system for enriching the rich, protecting feudal lord ownership of the earth," says the Communist.

Sixth Amendment says
1. Speedy and public trials: "Courts must become public entertainment the­atres, even if unprepared," says the Communist.
2. Jury must consist of impartial people: "Today's media excesses make it necessary that only ignorant clods be chosen as jurors," says the Communist.
3. Defendant must be informed of the charge: "This is reasonable, but it often helps criminals to outwit the police," says the Communist.
4. Defendant must be confronted by witnesses against him: "A device that enables thugs to intimidate or murder honest witnesses," says the Communist.
5. Defendants must have process to ob­tain witnesses: "This is right; there are a few good ideas in the U.S.A. Constitution," says the Communist.
6. Defendants must have counsel: "This gives vast free legal services to defendants, at unbearably enormous cost to taxpayers," says the Communist.

Seventh Amendment says
1. Jury trials for $20 cases: "Taxpayers are bled great sums of money for courts for trivial disputes," says the Communist.

Eight Amendment says
1. No high bail: "Dangerous criminals must be freed, and left free to commit more crimes," says the Communist.
2. No high fines: "It actually pays to break laws and to swindle and steal to pay a small amount for high profits," says the Communist.
3. No cruel and unusual punishments: "Perpetuation of Eighteenth Century ideas of what is cruel or unusual," says the Communist.

Ninth Amendment says
Rights unmentioned are retained by the people: "Absolutely meaningless and opaque words," says the Communist.

Tenth Amendment says
States rights are all those not clearly given to the nation: "Even a terrible civil war was not enough to teach the Americans the dangers of what now are over fifty-one different, and madly complicated, law codes and systems," says the Communist.

"I resist the temptation to comment on other parts of the U.S.A. Constitution," says the Communist, "but must say that the Fourteenth Amendment rule of (1) Due process of law makes arcane formalities far more important than plain justice, while (2) Equal protection of the laws is plain hypocrisy for black people and Hispanics and women and many other citi­zens."

Then the Communist says, "All in all, it now is clear that the U.S.A. Constitution's
COMMUNIST CRITIQUE

civil rights and human rights protections are frauds and shams in fact, though they once seemed to be noble statements, two centuries ago.

A COMMUNIST BOASTS OF THE NEWEST COMMUNIST CONSTITUTION

"Taking the newest example of a Communist Constitution, that of the Peoples Republic of China, as amended in December 1982," says the Communist, "I call your attention to the following clauses; they speak for themselves.

Article 5 'Allows non-agricultural individual laborers to engage in individual labor involving no exploitation of others,' and makes natural 'resources ... the property of the whole people,' while Article 7 permits people to 'farm small plots ... engage in limited household side-line production, ... and ... keep a limited number of livestock,' and Article 9 'protects the rights of citizens to own lawfully earned income, savings, houses and other means of livelihood.'

"There is no abolition of the right to private property, within decent limits," the Communist emphasizes; and he calls western stories about the abolition of private property in Communist states, 'Lies.'

"Article 10 says, 'he who does not work, neither shall he eat. No freeloaders in China,' " says the Communist.

"Article 22 gives to the National People's Congress ... powers ... to amend the Constitution; to make laws; to supervise the enforcement of the Constitution and the law ... The people rule,"' says the Communist.

Then proudly, the Communist points to Chapter Three of the Chinese Constitution. Articles 44 through 58. These are detailed statements of civil rights and human rights of citizens, very impressive to read. Many matters that are not clearly stated in the U.S.A. Constitution are expressly pointed out, such as freedom not only of speech and the press, but also of "correspondence, ... assembly, association, procession, demonstration ... and the right to 'speak out freely,' air their views fully, and hold great debates." These seem deeply concerned about personal liberties, even more than the U.S.A. Constitution.

Article 46 says that "Citizens enjoy freedom to believe in religion and freedom not to believe in religion and to propagate atheism." The church-and-state conflict seems to be resolved (though against the church).

Article 47 guarantees "freedom of person and their homes," and against arrest except by court or police authority.

Article 48 guarantees work (jobs) for all, by the state; and Article 49 promises "rest ... working hours and systems of vacations" — which is more than the American provisions do. "Material assistance in old age and in case of illness of disability," plus "social insurance ... public health services, cooperative medical services" and more, are guaranteed by Article 50.

"We do not permit the medical association to become a new, immensely wealthy conspiracy," says the Communist.

"Education is a 'right,' " under Article 51, and freedom to engage in research and artistic and cultural activities are encouraged by the state, according to Article 52. An ERA-type provision is stated, for women, in Article 53. Even guarantees of protection of "overseas Chinese and their relatives" are set forth in Article 54. "We are far ahead of the U.S.A. in these matters," says the Communist.

Article 55 assures the right of citizens to bring complaints against state authorities, and to appeal from "any infringement of their rights" without retaliation. "There is no need for a civil-rights-statute in China," boasts the Communist.

Article 57 demands that citizens protect state property and order and ethics and secrets. "Hooliganism or injury of public interests is not a mere trifle in China; but there is 'law and order,' " says the Communist.

Article 58 requires "every citizen to defend the motherland." The idea of a purely professional army is acceptance of "mercenaries" in the view of the Communist. And sanctuary for foreigners "persecuted for supporting a just cause ... or revolutionary movements or for engaging in scientific work" is promised by Article 59.

"All in all, the Constitution of the Peoples Republic of China is far superior to that of the U.S.A.," the Communist proclaims.

AN AMERICAN ANSWERS THE COMMUNIST

As to the U.S.A. Constitution, and the charges that its provisions are perverted and abused, it cannot be denied that sometimes abuses of any law will occur. Fine restaurant food, prepared by a superb chef, sometimes can be used, by a villain, to choke a patron instead of to nourish him. But that does not mean that the food is poisonous. In the vast majority of cases the American Constitution does work, and does produce reasonable justice and security. That fact is patent, from any study of history. The acid test is simply this: How many Americans want to become citizens of other countries? How many foreigners want to become citizens of the U.S.A.? The Communist concentration on the abuse (rather than the use) of liberties stated in the U.S.A. Constitution is like describing the hole, alone, in portraying a doughnut. Most significant of all, of course, is the fact that the American Constitution was the model for the drafting of both the Russian and the Chinese constitutions.

As to the Chinese Constitution's provisions, so gloweringly listed by the Communist, it is most interesting to look at the clauses in it that he did not mention. These clauses make crystal clear what the government and law of the Peoples Republic of China really are.

For instance, Article 2 says: "The Communist Party of China is the core of leadership of the whole Chinese people." That means that a small minority — Party Members only — holds power.

Article 13 says that "Education must serve proletarian politics." Brainwashing, to serve Party politics, not truth or freedom, is the declared policy.

Article 24 says the "Standing Committee of the National Peoples Congress is the permanent organ" of that "Congress." It is "composed of the following members: The Chairman; the Vice-Chairman; the Secretary-General; and other members." This is the ruling clique, the real government of China. Article 25 lists its powers, with breathtaking bluntness and finality: "(1) to conduct the election of deputies ... (2) convene ... Congress; (3) to interpret the Constitution and laws and to enact decrees; (4) to supervise ... the State Council, the Supreme People's Court and the Supreme People's Procuratorate; (5) to change and annual inappropriate decisions adopted by the organs of state power ..."

It goes on to list power after power, from appointing and removing officials, make or break treaties, grant honors, grant pardons, declare war, etc.

Article 30 and 31 make it even clearer, that The State Council, composed of the Premier, Vice-Premiers, and ministers is "the executive organ ... of state power." These, twin juntas, usually led by the same few honchos, are the oligarchy that rules China.

China is a dictatorship run by a small oligarchy of politicians. It says so, in its "Constitution."

Worse yet, since the Amendments of December 1982, "The State Military Commission" is given equal leadership. It will take time to reveal what that means. Probably it means sharing of the dictatorial power by the Generals who control the enormous army, whose uniformed soldiers are seen everywhere in China. Shades of Fascist Franco and Mussolini and Hitler!

A chillingly new development in the new Constitution is the December 1982
COMMUNIST CRITIQUE

elimination of the provision of Article 45 that said that citizens enjoyed "the freedom to strike." The dictatorship has no intention of permitting a Lech Walesa, Polish-style Solidarity rival to use labor union form to demand any real freedoms. At the same time, "family planning" birth control was made part of the Constitutional law. Also, the ceremonial post of President, abolished by Chairman Mao, was re-established, and the local communes were stripped of their grass-roots political authority and were reduced to purely production units. The iron control of the New Mandarins was made tighter.

But China always has treated written laws as something of no concern to "secret discipline" fight, as Robert Kennedy said, caught between considerations, rather than written laws, always have been (and are) the real bases of actions and decisions of the rulers and agents of China. The law books of China are found in the politics sections of Chinese bookstores.

In fact the Chinese Constitution is no constitution at all, by American standards. It is a mere set of statutes, changed by the ruling party chiefs at every session of its "Congress," and not by referendum to "the people."

We Americans have much to learn from the Chinese — about hard work, patience, and other qualities. But about law and civil liberties and human rights, the Chinese have much to learn from us — if their New Mandarins and New Warlords will let them learn such things.

by M. C. Pastoret

Communist-baiting is one of the most popular indoor sports among conservatives. The basic equipment is a wit (large or small, sharp or dull) and an audience. The baited Communist (be it an individual or a government) often is not so much defenseless as absent. The object of the game is to achieve a verbal stroke that distinguishes itself as a rather one-sided harangue or bit of drollery.

The foregoing entry in the game by Howard Oleck aims, one supposes, at political satire, but falls far short — even of drollery — into a muddle of ideological drollery. "The Government makes an unintelligible hash of the Chinese Constitution by reproducing passages which may well be out of context from a translation which is uncredited. Most of the quoted passages are used to criticize the tightly structured, highly political hierarchy of power in the Chinese government. Yet the point of the criticism is vague indeed, for that government is fait accompli, and the function of those provisions is to guide development of government policy on the reforms instituted since Mao's death in 1976. Other provisions — abolition of freedom to strike, enforced limits on family size — may be deplorable but are hardly surprising, given that the People's Republic is a nation of over one billion human souls, a nation struggling to improve its position in the modern world economy after its decades of isolation and in the face of its current rising unemployment."

Prof. Oleck's remarks, thus examined, fall flat. At the same time they suggest serious problems that the author probably did not intend. It is rather shocking to read in the first paragraph that America is "losing the worldwide struggle for 'the hearts and minds' of the peoples of the earth." Shocking not that we are losing, but that the "struggle" can be perceived with approval. It is well that Prof. Oleck did not include the traditional corollary to that statement: that we must make the world safe for democracy. The time has

Continued on page 8

NATIONAL LAWYERS GUILD

by Clare LMcGuinness

Did you have a dream when you began law school? Were you lured into law because of the eloquence of Clarence Darrow, titillated by the desire of earning huge fees, or were your visions to remedy social injustice through your legal skills? Perhaps your dream vanished in the whirlwind of the first year. You were caught between Scylla and Charybdis. Isolation, disillusionment, survival! The dream became a nightmare.

To keep your goal alive inside the endless web of legal analysis, it helps to find others who share your beliefs. United, your dream will endure. If your vision is to fight, as Robert Kennedy said, "against the enormous array of the world's ills — against misery and ignorance, injustice and violence," The National Lawyers Guild may provide a forum to keep your dreams. But a reading of its purpose in the Cleveland-Marshall Bulletin is deceptive and unrevealing: "The National Lawyers Guild is an organization dedicated to the recognition, examination, and challenge of contradictions arising from the ideals professed by Anglo-American jurisprudence and the reality of law as it affects our daily experience."

You may have heard that the Guild is tainted by radical beliefs and a left wing ideology as I did. But a brochure circulated by the Guild provided more insight into its purpose of caring. Titled, Has Justice Been Done?, it centered on an alleged human rights violation by the FBI against Dick Marshall an Oglala Lakota man in prison. It reported on a paper by Amnesty International calling for a special commission to investigate FBI misconduct.

At the first meeting I attended, discus-

Continued on page 11
OVER THE LIMIT

by Lynette Ben

It's a Friday afternoon — the end of another long, hard week at C-M. Students decide to go to the Rusty Scupper or SBA Happy Hour to relax and forget about the law for one evening (if possible). If you are one of these students, are you aware of O.R.C. 4511.191—Ohio's new drunk driving law?

Under the new law, which went into effect on March 16, 1983, it is illegal to operate a motor vehicle while under the influence of alcohol, a drug of abuse, or both. The words "under the influence" are not clearly defined, but have been interpreted as the amount of the alcohol and/or drug consumed which has caused the driver to lose normal control over his actions and movements or has distorted his thought process. (In most circumstances, "under the influence" occurs at 0.10%; however, the number of drinks necessary to reach 0.10% varies with each individual.)

There are several significant differences between the old and the new drunk driving laws. Under the old law, if the driver had a concentration of 0.10% of alcohol in his blood, there was a presumption of guilt; however, the presumption was rebuttable by the driver. The new law provides that if the concentration of alcohol in the blood is 0.10% or more, that is conclusive proof of intoxication. The driver's only alternatives under the new law are to: (1) have an expert witness attempt to show that the breath test was not perfectly accurate or that the test was improperly given (which may be difficult to do under most circumstances); or (2) request a second test by a person of the driver's own choosing. The driver can even have the option of a blood test, which is considered more accurate than the breath test. In order to be valid, however, the test must be administered within two hours of the arrest.

If the blood level of alcohol is 0.10% or more, the new law also allows policemen to immediately suspend the license of the driver until a hearing is held. Usually a hearing is held within five days, and a judge can then decide whether suspension of the license should continue until trial on the merits.

If the driver refuses to take the test, the driver's license may be suspended for one year so long as the policeman had reason to believe that the driver was intoxicated while driving on a public road. Also, the failure to take the test may be brought out at trial.

Under the new law, the penalties are more severe if a person is found guilty. First offenders can be sentenced to jail for up to six months, and must serve at least seventy-two consecutive hours. Also, a fine of $150 to $1,000 may be imposed and the driver's license may be suspended from sixty days to three years. Of course, the penalties are even stiffer for second and third offenders.

Although the details of the new law may appear to have been worked out, the law actually creates some problems. One problem is the overcrowding of jails, as many jails may not be able to handle the seventy-two-hour mandatory sentences. Also, "Those who commit more violent crimes ... have priority for jail space over drunken drivers." (The Cleveland Plain Dealer — February 20, 1983). According to Cuyahoga County Sheriff Gerald T. McFaul, "(Congress) ... put the cart before the horse." (The Cleveland Plain Dealer — March 16, 1983). Yet Congress contends that the purpose for enacting the law was not to put more people in jail, but rather, to get them off the highways.

Another problem facing the drunk driving law is that more drivers may refuse to take breath tests because of the standards set by the new law. Also, there may be more paperwork and confusion if police may automatically suspend the driver's license for refusal to take such test.

Finally, there is a problem of uniformity as the law may be handled differently in each court. According to an article appearing in The Cleveland Plain Dealer on February 20, 1983, "Cities may adopt all or part of the state law, but many will continue to follow their own ordinances and allow plea bargaining to reckless operation or physical control for at least the first offender."

In order to alleviate some of these problems, the Ohio Municipal Judges Association has sent six resolutions to the legislature to amend the present law. Two of these resolutions are: (1) to allow first offenders to be placed in a rehabilitation program instead of the mandatory jail sentence; and (2) to expand the per se provision to include drug use.

Regardless of its problems, the new drunk driving law remains in force and effect. Many lawmakers believe the success of the law rests with the general public. The law does not say that we cannot go to Happy Hour on Friday afternoon and enjoy ourselves. But for our safety and the safety of others, it does say that we cannot drink and drive!!!

ANOTHER AMERICAN

long since passed when such proselytizing for expansionism has been an appropriate international mission of the United States. It is more than task enough to maintain our present sphere of influence against those of the Soviet Union and the People's Republic, to forward human rights where we have such influence, to do what we can for our tarnished image (and through practice rather than public relations), and to try to keep the lid on international enmity until reason may prevail in the nuclear age.

Prof. Oleck certainly picked an interesting Communist to bait. I wonder if I would mind quite so much had he exercised his rhetoric on the Soviet Union. Far more

than the People's Republic, the U.S.S.R. is a known quantity to a politically astute public. The People's Republic is not half so well understood by Americans. Even after Chinese women's tennis star Hu Na fought her celebrated case for American political asylum, how many of us understand the play of law and policy between the two nations. In this sense, the bear is fairer game than the panda.

I do not suggest that one should not write of a topic unless it is popularly familiar. Quite the contrary. What is required, however, is not a lampoon of the Chinese Constitution, but an analysis of it, an explanation of what it contains and how it functions as a legal and political instrument. I consider such analyses to be America's intellectual "mission," a mission of the first moment. We live in dangerous times. The practice of communism is the People's Republic, to say nothing of the Soviet Union, is repressive — no, reprehensible. But it does little to further informed debate on our foreign policy to engage in what is essentially empty taunting of the my-dog-is-better-than-your-dog school.

Satire is a difficult literary form that can be trenchantly effective, as such writers as Swift and Orwell proved. Yet if this is satire, it is poor satire, unpolished rhetoric, and it contributes not a whit to our political sophistication, our capacity to understand — and consequently, to deal with — the very large fact of the People's Republic of China.
SBA CANDIDATES’ STATEMENTS

Candidate for President

Lori Beckman

My name is Lori Beckman, and I am running for the office of S.B.A. President. As an S.B.A. senator, I have observed that S.B.A. has a great deal of potential that has not been realized, and I'd like to draw upon these resources to better serve the students.

We need to elect committed officers who are willing to work full time to better serve the students of Cleveland-Marshall. I pledge my hard work and devotion, and would appreciate your support on May 4 and 5.

Candidate for President

Dave Lambros

Over the last two years I have been closely associated with the S.B.A. as Social Director and Student Senator. The main functions of the S.B.A. are 1) to act as liaison between students and administration, 2) fund and support student activities and 3) support the students in implementing change.

Candidate for Vice President

Brooke Kocab

I'm running for SBA Vice-President. Having experience as an officer of past student organization, I realize the time and energy required.

As SBA Vice-President, I'd like to see more activities such as happy hours, Comedy Club nights, guest lecturers and career planning seminars. I'd also like to see SBA and general law school services more available to night students. Having been an undergraduate night student, I'm aware of the difficulties that arise.

I'm prepared to commit myself to SBA and urge your support.

Candidate for Vice President

Kim Konkol

As a CSU student for the past five years (including undergrad), I realize that to be effective SBA needs to hear the voices of all Marshall Law students. Evening students have different problems and needs than day students. Although I am an evening student, beginning in the fall I will also be attending some day classes which will make me accessible to both day and evening students who wish to express their concerns. This will give me a unique perspective on what S.B.A can accomplish for all Marshall Law students.

Candidate for Vice President

Stephen D. Richman

I am a second year Senator running for SBA Vice President. I do not have a long list of promises, but I do have many ideas, and the dedication to implement them.

Among the ideas I have begun to develop are the "Legal Internship Program," and the "Legal Aid Volunteer Program." Both programs are geared to satisfy student needs for present practical experience and future job opportunities.

I anxiously await the opportunity to fulfill your ideas, and mine.

VOTE RICHMAN to make it possible.

Candidate for Treasurer

Tony Bondra

FELLOW CLEVELAND-MARSHALL STUDENTS! I am not going to tell youContinued on page 10
SBA CANDIDATES

of promises that I might not be able to keep, but what I will promise you is that I will give my utmost devotion to the office of treasurer.

With an undergraduate degree in Finance, I am aware of the necessity for efficient management of funds. If elected, I will give my 100% effort to allocate those funds to make your years at Marshall the finest they can be.

Your help and your ideas will be instrumental. Thank you.

Candidate for Treasurer
John Forys

I'm a candidate for S.B.A. Treasurer. Currently a Senator and S.B.A. Secretary, I've worked closely with the present administration. Through this I've become knowledgeable of the responsibilities, functions, and capabilities involved. Availability and communication are keys to meeting the needs of both night and day students. By expanding social, academic, and career activities and striving for increased availability of school services the S.B.A. can help meet these needs. I pledge the time and energy to promote these goals for an enjoyable and productive upcoming year.

Candidate for Secretary
Sue McKinney

I am running for S.B.A. Secretary. I've been involved in student organizations and would use my experience and the S.B.A.'s influence to promote greater availability of social and academic activities, in particular: more information concerning available services, greater attention to student needs, and more social events to promote unity, including evening and weekend services and events in which night students can participate.

The S.B.A. should be a useful asset to all students, and with your support I will do my best to realize these goals.

Candidate for Secretary
Ditty Marciniszyn

As a first year student who has contributed to the law school community as a S.B.A. Senator, I am now running for S.B.A. Secretary.

I believe a major responsibility of that Office is open communication between S.B.A. and the law school community. A monthly, rather than quarterly, News Letter would help that communication. I have also come to recognize some informational needs unique to first year students which a Freshman bulletin board would provide.
CONGRESSIONAL IMMUNITY

Mr. Brand explained that this immunity which the Framers included in the Constitution developed in England where the king would attempt to frustrate the workings of Parliament by bringing a lawsuit or arresting individual members.

The Supreme Court in Gravel v. United States, 408 U.S. 606 (1972), stated that the exemption from arrest for members of Congress applies only in civil cases. The court goes on to explain that "...implicit in the narrow scope of the privilege of freedom of arrest is, ..., the judgment that members of Congress ought not to stand above the law they create but ought generally to be bound by it as are ordinary persons." Gravel, 408 U.S. at 615.

Why then do we still hear of congressmen invoking "congressional immunity" if the privilege from arrest is so narrowly construed? The area of immunity is further complicated by the fact that Art. I, sec. 6 has in it an additional clause which immunizes the congressmen from either criminal prosecution or a civil lawsuit for what they say in Congress (i.e. the "Speech or Debate Clause"). It is this immunity of speech or debate which is still a viable defense for congressmen. In Hutchinson v. Proxmire, 443 U.S. 111 (1979), one of the winners of the "Golden Fleece of the Month Award" did not consider the distinction to be much of an honor and brought a suit against Senator Proxmire for defamation. Senator Proxmire was provided with immunity for anything which he had said during the deliberations of the Senate by the speech or debate clause. However, this privilege is also limited and the immunity did not protect the Senator from an action based on whatever he stated in his newsletter and press releases.

In summary then Rep. Stokes, and any other federal legislator will not be immune from a criminal arrest, "even though the imprisonment (the maximum penalty for a misdemeanor in Maryland is one year in prison and a $1000 fine) may prevent or interfere with the performance of their duties as members." Gravel, 408 U.S. at 615.

The Constitution provides that our elected representatives in Washington, D.C., except for limited instances, are to be treated as equal with those whom they represent.

"There is one difference between a tax collector and a taxidermist - the taxidermist leaves the hide."

Mortimer Caplan

(1916- )

Quoted in Time, February 1, 1963
Human Rights Violations in El Salvador

Guadalupe Gonzalez, an official representative of the Salvadoran resistance movement Democratic Revolutionary Front (FDR), will speak on “Human Rights Violations in El Salvador” on May 5 at 12:00 noon in room LB 133. Ms. Gonzalez has been active in the Salvadoran resistance movement since her childhood, and is the only woman representing the FDR in the United States. The National Lawyers Guild is sponsoring the speech.

Consultation

Congratulations

The Cleveland State University Moot Court team of Anthony Smith and Kerry Randall placed second in the regional competition held on April 8 and 9. Mr. Smith was also recognized as the outstanding advocate in the tournament. This team will now represent the region in the national finals to be held in Atlanta in late July.

May 10, 1983: A DAY IN COURT; The Ohio Court of Appeals Eighth Appellate District will hold a C—M College of Law Session on Tuesday, May 10th in the Moot Court Room. Three sessions will take place at 9:00 a.m., 10:30 a.m., and 1:30 p.m.; and summaries of the nine cases to be heard by the Court will be available on that day at the Moot Court Room. The sessions are open to all C—M Law students.

Parking information

Two new parking lots were opened last quarter. Lot “S” is located on East 22nd Street, north of Chester Avenue and has 65 spaces. Lot “U” is located on East 23rd Street, north of Chester Avenue and has 67 spaces. Both of these lots are equipped with ticket dispensers. Additional parking lots are in the process of being developed; their location will be publicized when they become available.

The University Parking Facility was converted at the beginning of Fall quarter to a ticket dispenser operation. Four ticket dispensers are located on each level of this structure and on the surface lot immediately south of that garage. A red light above the dispenser marks its location. A parking attendant is located in the office immediately north of the East 21st Street entrance/exit to the Parking Facility to provide change and information.

Your vehicle must be registered to park on campus. Student decals and faculty/staff decals and permits expire on June 30th of each academic year of issue and must be renewed. The decal is good from July 1 through June 30. When you register your vehicle, you must know your license number, have a valid identification card and pay all outstanding violations.

Candidates for Student Judicial Board

On May 4 & 5, not only will the SBA be holding elections, but the Student Government Association of Cleveland State University will also be conducting elections. One contest in that election is that for the seven-member Student Judicial Board where each student will have the opportunity to vote for seven individuals to fill these seats. The Judicial Board is the student group which hears all traffic appeals and since a large portion of Cleveland-Marshall students drive to school, it would be advantageous for the law school to have adequate representation on that board.

We would like to serve our student body as members of the Judicial Board. We recognize that while most of the tickets issued by the University are legitimate, there are times and circumstances that justify the forgiving of fines and violations. We promise fair and understanding hearings and would appreciate your support. On election day, please take time to get an SBA ballot and vote for:

Mary Pat DeChant Patricia Fromson Michael Rae
Steven Rosso Brenda Tedeschi Gary Williams