Ohio's Controversial "Insanity" Defense
By Lawrence G. Sheehe

Members of a society which holds itself out as a government of laws all too frequently find themselves prisoners of the very laws which they had enacted for their common advancement and protection.

Evidence of this can be found at every level of government.

In its first issue of the new decade, the Gavel has sought to focus upon one such example of a law which frustrates its very purpose — Ohio's "Innocent By Reason Of Insanity" defense.

While five separate members of the Gavel staff addressed themselves to this particular topic, three more examples of government-gone-awful have been brought home to C-M.

It is the purpose of this commentary to address each.

In the State of Ohio, the perpetrator of a criminal act can receive radically different treatment from the courts (for the same act) depending upon whether the presiding judge finds the defendant to be sane (and, thus, fit to stand trial) or insane (and, thus, unfit to stand trial).

Admittedly, the law was enact as a piece of humanitari-an legislation. It was intended to insure that no person be punished for the commission of an act over which he had no control. Instead of punishment, the law was intended to provide psychiatric care (and ultimately rehabilitation) to the genuinely insane offender.

Not only is the law failing to accomplish its stated goal, it's providing a loophole through which any criminal who arms himself with a convincing psychiatrist and a willing attorney can produce evidence of his "insanity" and thus escape the sanctions properly reserved for one who has committed his misdeeds.

Instead of a prison sentence, the insane defendant is sent to a state hospital for the criminally insane — ostensibly for a period of rehabilitative therapy. Once the defendant enters this "hospital," he is no longer under the jurisdiction of the court. His stay is determined by the director of the facility — the decision rendered on the basis of the progress shown by the defendant in his rehabilitative journey.

All too often, the defendant can be out walking the streets in a matter of months, even for a crime as serious as murder.

Gavel writers Ken Callahan, Steve Carr and Tom Johnson talked to attorneys who deal closely with the law. The opinions of (Assistant County Prosecutor) Gary Andrich (criminal justice scholar) Dean Robert Bogomolny, (defense attorneys) Jerry Milano and John Butler are presented respectively.

If the Congress of the United States defers to the request of President Carter and authorizes a peace-time military draft (Congress has not yet done so at the time of the printing of this issue of the Gavel), the lives and futures of a vast number of able-bodied males of U.S. citizenry in the 19-26 year-old age group will have suddenly become very expendable and uncertain.

Congressmen — in an election year — are likely to be receptive, given the fact that the electorate is in the mood to do a little head-busting abroad.

The mood is so prevalent that talk of a new draft-resistance movement is already being assailed as unpatriotic.

It's not all that surprising that young American males have no desire to take up permanent residence in an Afghanistani graveyard. Nor is such an idea the least bit subversive.

It's now become very obvious that the United States has not yet disabused itself of the notion that it is duty-bound to be the world's policeman.

It didn't seem to be too much to ask that the U.S. learn at least that much from the Vietnam debacle. Apparently it was.

When a legitimate American interest is involved, American military intervention is justified.

My basic objection to the peace-time draft is that it magically broadens the scope of legitimate American interests. American lives and sovereign American soil are the only legitimate American interests. Nothing else is important enough to justify the spilling of American blood.

Arab oil is not worth dying for.

Most of those who would disagree with that statement have no chance of being drafted. It's always been easier to volunteer someone else than to stand in the path of a bullet yourself.

I can't help but wonder just how many people would want to see the draft reinstated if all males and females within the age range of 19 to 50 were made eligible.

I'm sure there's an "equal protection" argument to be made there somewhere.

Most Americans probably believe that the Bureau of Indian Affairs is an agency which acts with the best interests the American Indian in mind.

Native Americans — who are in a position to know better — will tell you a different story.

Russell Means, the leader of AIM (the American Indian Movement), tried to do just that at C-M on January 24, but only about 35 people cared enough to come and hear him speak.

The C-M chapter of the National Lawyers' Guild (NLG) brought Means to C-M to tell of the struggle of the Native American in modern day America — the struggle to stay alive.

NLG spokesman Carter Dodge was visibly (and rightfully) disappointed by the pathetic turnout. Means himself said he wasn't disappointed, that he has come to expect as much.

Means recounted his...
Aftermath of the Cleveland School Strike

Street Law Thrives

By Lee Kravitz

The Street Law Clinical Education program, contrary to the belief of some, was not set back as a result of the prolonged teacher’s strike in Cleveland schools. In some ways, in fact, the Street Law program has benefitted by the strike.

Professor Elizabeth Dreyfuss, faculty advisor to the Street Law Clinic, stated that after the first few weeks of classes the law student— instructors were able to get a feel for the needs of the high school students. The subsequent strike provided the instructor with the opportunity to go out in the community and gather information about areas of interest to high school students.

Various activities included third-year student Joanne Pellegren's visit to the County Jail to gather data and information about young people who are presently incarcerated. Irv Weiss, an instructor at John F. Kennedy High School, studied minority opportunities within the construction industry. Judy Zimmer went to Cleveland Heights High School and shared teaching duties with Sara Reidi.

These activities, as well as others conducted during the strike, aided in the curriculum development of the Street Law Program, which Professor Dreyfuss sees as crucial. "When the health of the program depends on this curriculum development," she stated. Dreyfuss further added that the Cleveland-Marshall Street Law Clinic is a leader in the state of Ohio, and that this curriculum material is circulated to other law schools, such as the University of Dayton and the University of Toledo.

Although the program requires a heavy time commitment by law students who serve as instructors, there are also benefits to be received.

Dreyfuss commented, "the program makes a law student active in his education by getting a feeling for institutions, jails, and schools.

"The program does develop lawyering skills. The instructors perceive problems that lay people face," she added. Instructors then are able to deal with these problems, and communicate with their students in an attorney-client relationship.

In addition to lawyering skills, teaching skills are also acquired which may be useful to those who wish to teach law in addition to being a practicing attorney. The curriculum concentrates on Criminal, Consumer, Family, and Landlord/Tenant Law, and each spring the instructors coach their class in a mock trial competition against other Cleveland area high schools. This provides a reinforcement of evidence concepts and provides both the student and the law student-instructor with an opportunity to develop strategy for a trial.

"This spells out the philosophy of Street Law," says Professor Dreyfuss. "A good teacher is a facilitator, like a coach. Furthermore, the mock trial gives the students a chance to be active in the classroom and in their education."

The Street Law Clinic has also helped to provide jobs for C-M students. One former student now co-ordinates a street law program at Lewis and Clark Law School in Oregon. Ted Barone, presently a third-year C-M student, and former street law instructor, has been developing a Street Law II program this year, whereby high school students are taught to do legal research, and are then placed in jobs for nine-week periods. He will soon be in Washington, D.C. to work in a Street Law mock trial workshop.

Last, but not least, law

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Community Education Flounders

By Mike O'Malley

The Community Education Program— seemingly blessed with much promise back in October—now finds itself in a state of limbo as a result of the prolonged Cleveland teacher's strike, which recently ended.

Original plans called for twelve presentations to be given at Cleveland area high schools from November, 1979, to May, 1980. The teacher's strike has effectively decimated these plans, as the Cleveland School Board, in order to cut the cost involved in keeping the schools open at night, has decided to cancel its Adult Education Programs, or limit them to three high schools. Since a goal of the Community Education Program is to reach out to as much of the community as possible, program directors Rick Alkire and Joan Pellegrin have been forced to sever ties with the Cleveland School Board.

Alkire and Pellegrin are confident that they can still get the program off the ground. "We are now in the process of making arrangements with United Way Agencies, Neighborhood community centers, and Cleveland city Councilmen to come up with suitable locations city-wide where we can present our program," commented Alkire. "I am quite confident and determined that we can still successfully pull this program off," he stated.

Pellegrin is just as determined. "The presentations are ready to go. The students who are giving presentations on the various subjects have completed their research, prepared their presentations, and each has been rehearsed and critiqued," she remarked. "At this point, it would be a shame if we had to waste the time and effort students have been put into this project."

As yet, no dates for any of the presentations have been set. Hopefully, arrangements will soon be finalized. As mentioned, the time and effort have been put into this project.

Now, with a little luck and cooperation from various civic groups, the potential benefit of the Community Education Program, to the students and community alike, might be realized.
act in such a manner — with the frequency the book declares that he does. Thus I believe the book exaggerates the interpersonal "problems" the Chief has with his brothers. After reading several articles by other authors, I came to the conclusion that the Chief at least gets along with his fellow Court members even if he isn't "chummy" with them.

In their discussion of the leadership of the Court, the authors focus on the philosophically fluid members of the Court: Justices Stewart, White, Blackman, Powell and since 1975, Justice Stevens. Woodward and Armstrong describe how these five members "control" the Court by having the philosophical liberals — Brennan and Marshall — and the philosophical conservatives — Burger and Rehnquist — actively seek their votes to support either a liberal or conservative position. The book also shows how the philosophically polar justices will moderate their views in order to gain the votes of the "fluid five" in order to make their view the majority view. The work states that Chief Justice Burger is definitely not the philosophical leader of the Court as was his predecessor, the late Chief Justice Warren. The authors conclude that Justice Stewart, as the leader of the "fluid five," should be considered the real leader of the Court. I basically agree with this conclusion based upon my reading of several of the Court's opinions written during the period since 1969. It is well known, within some legal circles, that the present court is one of the most philosophically fluid — maybe the word unpredictable is better Supreme Courts in some time.

So if you would like to learn how the Supreme Court operates, who the real leaders of the court are, and you like gossip, then The Brethren should make enjoyable, light reading.

IN THIS CORNER

The Brethren —

A Review

By Cal Eymen

Several articles and book reviews have been written about The Brethren by Bob Woodward (co-author of All the President's Men) and Scott Armstrong. This is the Gavel's shot at the book.

The Brethren covers the 1969-1976 period of the so-called Berger Court. The book vividly describes how the (U.S.) Supreme Court arrives at a decision, the personalities of the justices and their relations with one another, and who is the real leader of the Court.

Probably the best sections of the book are the parts which illustrate the methods and procedures used by the Court in order to arrive at a majority decision in a case. Woodward and Armstrong show the reader the give-and-take of the justices during the weekly conferences. It is during these conferences that most cases are decided. The influence of inter-chamber memos of law between the justices, which are usually written during the process of writing an opinion, is well detailed. Thus, while describing these methods and procedures, the authors show the reader the collegiality of the Supreme Court and the need for the justices to get along with each other.

If you like gossip, then Woodward and Armstrong's description of how the justices do get along with each other is for you. The book's portrayal of the justices' relationships with each other is the most controversial aspect of the work. The portraits, given by the authors, of Chief Justice Burger's relationships with his various judicial brethren are short and rather "tongue in cheek" in style. These portraits, however, show the Chief Justice to be a vain, petty and pompous individual. Woodward and Armstrong write as if the Chief acts like a pompous ass every day and in every situation. The authors give the reader the impression that the Chief does not belong on the Court because of his alleged personality problems. Everyone has moments of pettiness in their dealings with the individuals whom they work with everyday. Since the justices must work with each other until they die or retire, I'm sure the Chief Justice realizes that he must get along with his brothers on the Court. So I find it hard to believe that the Chief Justice acts so childish and stupidly — or that the members of the Court would allow him to...
Genocide: Native American Style

By Libert Pinto

Russell Means, leader of the American Indian Movement, addressed a small gathering of 35 students last Thursday in the Moot Court Room. Embittered resentment shaped his words as he was recently released from prison for his part in the Wounded Knee incident. He has returned to his leadership role in the struggle to preserve the Indian race from extinction.

Speaking in example of United States government policy toward Native Americans, Mr. Means demonstrated violations of a United Nations Treaty on Genocide. The first violation was and is the forced removal of indigenous or colonized people from their homeland. Reservations shrink with every discovery of value of Indian land. Indeed, one treaty vested in the Sioux all of South Dakota west of the Missouri River for “as long as the rivers shall run and the grass shall grow.” If the Indians are not relocated and “rehabilitated” or “mainstreamed” they are left with land permanently scarred and stripped of its desirable minerals.

Mean’s second example of genocide is the “prevention of births among indigenous or colonized people.” According to his statistics, by 1976, 24% of all Indian Women were sterilized. In 1979 the figure had risen to 42%.

The third violations is “the physical hilling of indigenous or colonized people.” On Mr. Means’ reservation of 12,500 people, there have been 270 unsolved and uninvestigated murders. Also, the cancer rate among Indians has reached epidemic proportions as insecticides, banned elsewhere, are still in use. They still must contend with Agent Orange despite its documented lethal properties. As a result, Means contends that seven of eight pregnancies end in spontaneous abortion before the fifth month.

Means’ fourth example is the “forced removal of the young from their home.” Means is satisfied with the statistics that one of four Indian children is adopted or fostered out to a non-Indian home. Lastly, Means’ cites the “removal of the economic base of indigenous or colonized people.” As an example Means stated that Indians receive twelve cents per ton for the same coal which the State of Montana commands trains, they’ve been decimated by intertribal warfare, liquor and smallpox. Their income remains the lowest. Their life expectancy is 21 years below the national average. They are wards of the Bureau of Indian Affairs, an organization as inept, useless and fascist as HEW, the Dept. of Energy, OSHA, et al. Their endemic tribalism is not as much of an obstacle to effective political change as is the self-appointed leadership of Russell Means.

He talked about our government’s “genocidal” treatment of the American Indians comparing it with Carter’s (long-muted) histronics about Human Rights in the world beyond our borders. Means has exaggerated the former at the expense of the latter. The US government has no real interest in human rights, to an extent comparable to its interests in economic development. No government has; it’s just good advertising.

Helsinki, the most recent example, was a force before the ink dried. Means complained about the fact that the U.S. never signed the U.N. Genocide Act of 1952. So what. Does anyone think for a split second that a U.N. document or a “Helsinki Accord,” would have made the slightest difference in a U.S. response to Tibet’s invasion, the Rumanian government’s cultural genocide of its Hungarian population. Cambodia’s brutal self-destruction? Congress awarded most-favored nation status to Rumania and we’re in the process of “normalizing” relations with China which only destroyed some thirty million of its own a few decades ago (time heals all wounds). The application of a “human rights” criteria to international diplomacy is altruistic and inappropriate. The relevancy of genocide to the American Indian problem is demagogic. A nation, like a human being, survives from self-interest. As long as it is secure, distant problems, be they Asian or American Indian, by necessity, remain purely intellectual. Like Means said: “Out of sight, out of mind.” (He mentioned the “HEW Sterilization Policy” which Sen. Abourezk publicized in 1976: 24% of the Indian women were sterilized in 1976 (42% in 1979) through coercion and fraud. He properly described it as the “U.S. massacre of the unborn.” We’ve been doing it since Roe vs. Wade. (Can’t accept it at face value; then again, I could.) HEW has been accused of this policy in Black ghettos, Appalachia and now Indian Reservations. It pops up every so often like bread in a bad toaster, and yet the Indian population today is the largest it has ever been in its history.)

Means: A Credible Representative?

By Michael Varga-Sinka

The last major attempt at a legitimate Indian revival was not the Wounded-Knee but the Ghost Dance Religion (1889-90), when Wovoka, a Paiute medicine man, promised the return of the Golden Age: the paleface would be rooted out of the land, etc., etc. The movement was easily put down by the Seventh Cavalry. Besides troops and wagon trains, they’ve been decimated by intertribal warfare, liquor and smallpox. Their income remains the lowest. Their life expectancy is 21 years below the national average. They are wards of the Bureau of Indian Affairs, an organization as inept, useless and fascist as HEW, the Dept. of Energy, OSHA, et al. Their endemic tribalism is not as much of an obstacle to effective political change as is the self-appointed leadership of Russell Means.

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Russell Means — A Look of Frustration.
Ohio's Insanity Laws — Time for a Change

By Dr. Emmanuel Tanev

The recent trials, those of Andrew Cunanan and John Wayne Bobbitt, have once again brought attention to the insanity defense. The defense, which is based on the legal principle that a person who commits a crime while insane is not responsible for their actions, has been the subject of much controversy in recent years.

In the case of Cunanan, who killed seven people in a spree of shootings, the defense argued that he was not responsible for his actions due to a mental disorder. In the case of Bobbitt, who was convicted of stabbing his wife to death, the defense argued that he was not responsible for his actions due to a mental disorder.

In both cases, the defense was successful in having the defendant found not guilty by reason of insanity. This has led to a renewed debate about the insanity defense and its effectiveness.

The insanity defense has been used in a number of high-profile cases, including the controversial case of John Hinckley Jr., who attempted to assassinate President Ronald Reagan. In that case, Hinckley was found not guilty by reason of insanity.

Supporters of the insanity defense argue that it is fair and just, as it allows defendants who are mentally ill to avoid punishment for their actions. They argue that the public is better served by having defendants who are mentally ill receive treatment instead of being punished.

Opponents of the insanity defense argue that it is flawed and unfair. They argue that it allows defendants to avoid punishment for their actions, even when they are clearly guilty.

In recent years, there have been efforts to reform the insanity defense. These efforts have been met with mixed results, as some lawmakers have been hesitant to make changes.

One solution that has been proposed is to create a new legal category that would allow defendants to be held accountable for their actions, even if they are mentally ill. This would allow defendants to be punished for their actions, while still providing them with the care and treatment they need.

Another solution is to increase the availability of mental health care. By ensuring that defendants receive the care they need, we can reduce the likelihood that they will commit crimes in the future.

In conclusion, the insanity defense is a complex and controversial issue. While it has some advocates, it is also clear that it needs to be reformed. By working together, we can create a system that is fair and just for all.

Dr. Emmanuel Tanev is a licensed psychiatrist and a professor of psychiatry at the University of Pennsylvania. He has written extensively on the topic of mental health and criminal justice.

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The Dean's Perspective

By Steve Carr

The public views the defense as a "loophole" in the criminal law. A further problem is that many people inherently distrust the psychiatric testimony relating to "insanity." A Prosecutor's View

By Tom Callahan

I'm insane! Yes, I murdered sixty people! I didn't know what I was doing when I killed them. I was in a rage! There was nothing I could do! I'm in a world of pain!

Andrachik was understandably upset about the verdict. "The fact that the operation was well-planned indicated to us the fact of Levine's sanity. Levine needed cash fast, and that was a way to get it," said the psychiatrist. "Andrachik admitted that Levine had a personality problem, but added that he also had a "short fuse" when Kravitz started getting the upper hand in the negotiations. Levine reacted in anger.

By operation of recent statutory changes, Levine was sent directly to Lima, where his petition for release is being impending.

Andrachik was "totally disappointed in the verdict. The court was apparently convinced that Levine was insane during the entire episode. I think it was wrong in that case. We were all preoccupied with the fact that he was mentally ill — which is not determinate, in Ohio, of the insanity issue. After a crime, someone who is insane says, 'Go made me do it.' A sane man tries to get away!"

There is a common criticism of the insanity defense that it is too lenient. However, the decision is not an overall conviction, but a finding of acquittal by reason of insanity.

Within the last few weeks, the Dean has been solicited to testify before the Ohio House and Senate regarding the proposed legislation attempting to change the substance of the insanity defense.

This week is a Q & A transcript of the Gavel's interview with Dean Bogomolny.

Gavel: There is a growing public sentiment that would favor the abolition of the insanity defense. Should the defense be abolished?

Dean: Absolutely not. Many psychiatrists have a fundamental misunderstanding of the insanity defense. We are fortunate in America to have a legal criminal system, which is premised on the assumption that each individual possesses a free will and is therefore free to choose between acceptable and unacceptable behavior. A person who freely chooses to commit a crime is morally culpable and is subject to societal sanctions. The insanity defense merely distinguishes between those who possess a free will and those who do not. We simply don't punish those who are incapable of choice.

Gavel: Much of the criticism surrounding the insanity defense is highly emotional. The public views the defense as a "loophole" in the criminal law. A further problem is that many people inherently distrust the psychiatric testimony relating to "insanity."
Mary Jo Kanaga - A Pleasant Addition

By Alan J. Fisher

Mary Jo Kanaga, C-M's Secretary for Financial Aid and Placement joined C-M's staff this summer. She's worked in similar capacities at Michigan State University and Florida State University, but this is the first time that she has been associated with a graduate program.

In addition to her job, Mary Jo is enrolled in CSU's College of Arts and Sciences - she finds that her days are very busy. She enjoys working for and with students, and her enthusiasm and dedication are evident. She commented that she has found law students to be mature and cooperative; she feels that they display a sense of direction.

In her position, Mary Jo serves as the student's link to Nancy Goldman and Marlene Shettel. She would like it to be known that both departments - placement and financial aid - are very receptive to the students and their needs. "We're here to help the students, but it is up to them to seek the help available," she said. She laments, however, that student input and solicitation have been minimal.

Regarding placement, Mary Jo said, "The students who have used this office have been fantastic. Cooperation has been terrific in that there have been only two 'missed' interviews all season until the last part of January. I don't know what went wrong, but five students failed to show for interviews within two days."

She feels though, that many students are not taking advantage of the resources available to them. She noted that many students have not even contacted the placement office. "Either they are starting their job-search too late, or they don't know what is available," she added.

It's no secret that the biggest problem facing students during law school can be money. The problem can be overcome, but it takes planning and investigation. Enter Mary Jo, Marlene Shettel and financial aid.

"Students should look at their needs at the beginning of the year rather than during the middle of the term," said Mary Jo. "A financial aid package takes four to six weeks preparation, yet some students come in and expect immediate response and assistance."

"The two major problems - bank loans and National Direct Student Loans - are not geared this way. If you apply for aid your freshman year and you are not eligible, re-apply for the next year. Circumstances change and a student may qualify under a different program the next year. Again, the key is to come in and ask what is available."

Mary Jo is at C-M to help the students in whatever manner she can. Her positive attitude is overwhelming, and with student cooperation, a lot can be accomplished.

Dionne Warwick says: "Get your blood into circulation."

Call Red Cross now

Motion Practice —

For Just a Few

By Lawrence G. Sheehan

Graduating third and fourth year students who had planned to take Motion Practice in the Spring quarter will find that seats in the course will be about as hard to come by as a parking space on Euclid at 9:30 in the morning.

In the past few years, Professor J. Patrick Browne has drawn quite a crowd in his dual sections of the course. Last spring alone he taught 163 students.

This spring, Professor Chitlick will teach one section of the course in Room 205 — a classroom with a seating capacity of about 40 people.

Unfortunately, nobody else will be teaching the course — not Professor Browne at any rate — thus, it appears nobody will be picking up the slack.

Colonel Walter Greenwood, who has the thankless and unenviable task of putting together the course selection schedule, explains that he just doesn't have anyone available to teach the course.

A major part of the problem, according to the Colonel, is the revised first-year curriculum. Specifically, under the new curriculum, Civil Procedure has been reduced to a 6-hour course and it is to be taught in one quarter — the spring quarter.

Professor Browne has been tabbed to teach one of the four Civil Procedure sections. Whereas before he could teach two 3-hour Motion Practice sections, now, the six hours of Civil Procedure fulfills his 18-hour teaching commitment.

According to Colonel Greenwood, it is the policy of the Dean that all full-time faculty teach a total of 18 hours of class in the course of the school year. Some will teach 17, some 19, but the goal is to average 18 hours.

Professor Chitlick also will continued on page 9
SBA Report — Mannen Takes Over

By Mike O'Malley

On Tuesday, January 22, the SBA called its first meeting of the Winter Quarter. As usual, the meeting failed to attract enough SBA senators to create a quorum.

An informal meeting was held despite the poor turnout. This meeting was chaired by Ann Mannen — her first meeting as SBA President.

Informal discussion was had on a number of matters. Mannen notified those in attendance that she had appointed third-year student Mike Fine as the new Vice-President, and that she hoped this appointment would be ratified at the next meeting. Also discussed were alternative ways to run the book exchange, the Bar Review Raffle, and what to do about the repeated absenteeism of most SBA Senators.

The following week, another meeting was held. To the surprise of everyone in attendance, there were enough Senators present to create a quorum. The first order of business was to decide what to do about Senators who by their absenteeism have indicated that they ran for the office either to garner a resume filler or to satisfy their egos. While justice may have been served by the immediate expulsion of those in question, the Senate decided to expel any Senator who misses two of the remaining meetings (there are six left in this academic year). It was decided that a list would be posted indicating who the SBA Senators are and how many meetings they have missed (the response to which most likely will be “Who cares?” which, if the low blood drive turnout, the poor attendance at the Russell Means talk, and the reshelving condition in the library, among other things, are any indication, seems to be the prevalent attitude of many law students and faculty alike).

The Book Exchange was the next item for discussion. The first SBA Book Exchange, held at the beginning of Fall Quarter, was a success. There was no book exchange for the Winter Quarter. As Mannen explained, efforts were made by her and Jerry Walton to find several students to run the book exchange. No one was willing to accept the responsibility (Again “Who cares?”). SBA Secretary Joan Pellegrin proposed a system whereby the SBA will act as a conduit between buyer and seller. Sellers will submit index cards to the SBA indicating their name, phone number, books, and prices. Buyers may then inspect the card to locate the seller having the book they need. The proposal will be studied.

The Bar Review Raffle will be held. Having Senators sell tickets on their own time flopped badly, so in the next couple of weeks tables will be set up in the lounge at which the tickets will be sold. The date of the drawing is yet to be determined.

Ann Mannen's appointment of Mike Fine as Vice-President was ratified by the Senate.

Mannen announced that there would be an ice skating party sponsored by the SBA sometime in February. It will be free to law students. Signs indicating date, time, and place will be posted.

The meeting came to a close. Local oddsmakers say that the odds of obtaining a quorum at the next meeting are running about 1000-1. But then again, who cares?
Milano,  
Butler

continued from page 7

patient should be supervised after the release back into society. Someone should make sure that the patient takes medication and sees a doctor regularly.

John Butler, one of Cleveland's most prominent and outstanding defense attorneys, basically agrees with Milano. Butler has, "no confidence" in Ohio's insanity law. He discussed the Doctrine of Irresistible Impulse. His central question is "just where did this impulse begin?". When the insane murderer plans his scheme; when he obtains the weapon; when he chooses his victim; or when he commits the actual act of murder?

There is no telling and, therefore, this doctrine is ineffective.

Butler believes murderers — sane or insane — to be social risks. He says, "the advancements of psychiatry dispense with moral responsibility." Butler feels that the science of psychiatry is 90% vocabulary and 10% science. He is not opposed to a plea of insanity, he just doesn't want to see mentally upset individuals go free in our society after they have committed shocking crimes.

Although defense attorneys use the present insanity laws in Ohio to help their clients, they are not morally pleased with the end result. It looks as though a change is coming.

Street Law

continued from page 3

students participating in the program receive course credit.

Professor Dreyfuss, in addition to her duties at C-M, is a consultant to the National Street Law Institute and also teaches the law to corrections officers, inmates, and police officers at the police academy.

Funding for the Street Law Clinic has come from many local foundations in addition to the Robert F. Kennedy Memorial Foundation.

The Dean's Perspective

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possibility in fact-finding situation.

Psychiatry deals with human experience and is therefore an inexact science. But, psychiatrists, like any other experts, are called upon to testify, within their discipline, in terms of the appreciable legal standards.

Gavel: There are several bills in the House and Senate that arose as a result of the public outcry about the insanity defense. How are they attempting to change this defense?

Dean: They are attempting to change the defense by changing the verdict. Generally, the verdict would no longer be "not guilty by reason of insanity," but some other qualified verdict such as "guilty, but insane."

Gavel: Doesn't this intermediary approach conflict with the purpose for which the defense was created?

Dean: Yes. It is impossible for a person, under our system of law, to be insane and guilty. All of this proposed legislation is, in effect, a compromise. The real question should always be whether the individual possessed the requisite mental state required by the elements of the statute. This proposed legislation is simply inadequate.

The real question is not what his plea or verdict is, but what should be done with the person once he is tried.

Gavel: Most attorneys would agree that the present system lacks an adequate follow-up procedure after release. That is a critical problem.

Dean: That is where the focus should be as far as reform is concerned. Ohio must reform its Administrative release system. In the present system, when the individual is about to be released, the law merely provides for a hearing, upon notice to a probate judge.

There are absolutely no standards as to what should be done at the hearing. No one knows what roles the psychiatrists, judges and attorneys should play, although the goal should be a prediction of future behavior.

The hearing process must be fully developed. Two main goals must be achieved in the hearing process:

(1) a rational judgement should be made at the hearing as to prediction of behavior, upon release including the possible need for continual psychiatric supervision. (It is very important to bring in outside psychiatric testimony to evaluate and make predictions on future behavior).

(2) those considerations should be balanced with a policy avoiding a lifetime institutionalization of the person, if possible.
Protection or Punishment?

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grandfather's admonition to him when young Russell was starting school. "Beware of the white man," his grandfather said. "He has no ears or eyes."

There were precious few eyes and ears of any color gathered that day in the Moot Court Auditorium to see and hear Means convey his message that the American government has engaged in a quiet but deliberate policy of genocide, in violation of a United Nations treaty.

Gavel writer Libert Pinto's story presents Means' five part genocide charge.

Genocide — the systematic, planned annihilation of a racial, political or cultural group — may strike you initially as a pretty harsh statement of affairs. Until you hear what the Native Americans have to say, you couldn't imagine why they would make such a charge.

That's a major part of their problem — the national news media has devoted absolutely minimal coverage to what goes on in the Indian reservations. (The Indians refer to the reservations as "concentration camps.")

Out of the frustration, Native Americans have given up trying to deal with Washington D.C. — the U.S. Government has made hundreds of treaties with the Indian nations; it has broken all of them.

Means intends to present the American Indian's grievances to the United Nations.

You will hear more about this, one way or another. The Native Americans don't intend to die without a fight.

* * *

The Gavel, like any American newspaper, publishes under the protections of the First Amendment. That doesn't necessarily imply that it is a "free press" — at least not in the financial sense of the term.

Student fees provide the necessary operating capital of all University student publications. Publications submit operating budgets to the Student Publications Board. At this point the budgets are either approved, pared down or rejected outright.

This assumes that the Student Publications Board meets at all.

As of January 31, the Student Publications Board has not met in the 1979-1980 school year.

All University student publications — the Gavel included — have been operating on 1/3 of the budget they received last year. All have either already exhausted this interim budget, or will be doing so shortly.

This need not have happened. The Student Publications Board has been undeniably — and unforgivably — derelict in its duties.

As was reported in the Thursday, January 31, 1980, edition of the Cauldron: "Until December, the board had been without a quorum because of delays in the appointment procedure." The Publications Board, a subcommittee of the Faculty Council Student Affairs Committee, has a membership of three students, selected by Student Government's Appointments Board, and one faculty member and one administrator, chosen by the Student Affairs Committee chairperson.

"To date all the positions have yet to be filled, and the existing members have been reluctant to conduct business without a full board, according to the interim chairperson."

The bottom line is that there will be no more operating funds for University student publications until the Student Publications Board decides to meet.

If you don't see another Gavel around for awhile, you'll know why.

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Means

"Since 1973, 270 unresolved murders. One reservation or all? How does this compare with seven year statistics in a city of a half million? "(The) press (in Germany during WW II) said nothing; the government said they're being taken care of — Welcome to Nazi America!" I think that was the climax of his speech. "Insecticides used are banned elsewhere in the country." They're being used wherever they can get away with it. "(The) economic base is being removed by the multi-nationals in collision with the federal government." With lawyers and representation like William Kunstler and Mark Lane, that situation will not change very quickly. If it does, it will be for the worse.

(The American Indian needs some responsible leadership, professional publicists and some high-powered attorneys. The American majority does not need to "explore economic alternatives," as he suggested.)

A sense of history demands respect for the only indigenous Americans. They are the only group with a non-derivative culture. A tragic hero of our American epic. I hope the honors of defeat will provide for his physical, cultural and spiritual continuity. That can only be done by making them genuinely independent: by abolishing the B.I.A. and the reservation system and then leaving them alone to live on their present land or wherever (and how) they wish; to go into business or the professions or farming; to work at what they want. I trust more in their native intelligence than in this self-annointed intelligentsia."

Russell Means Speaks on Genocide
June Graduation Requirements

All third year students planning to graduate in June, 1980, should be reminded that certain procedures must be followed to insure graduation and eligibility to take the bar exam. First, graduating students should see Mrs. Martin to make sure they will have enough credits to graduate. Secondly, a graduation application with an accompanying graduation fee of $20. should be filed with the Graduation Office. An application may be picked up from Mrs. Martin’s office. Also, in addition to the Supreme Court Application (which should be completed and sent in immediately if you have not done so already), there is an application to take the Bar Exam which must be filed, at a cost of $60. Students taking the Bar Exam in other states should make sure that similar requirements are complied with.

Exam Taking Seminar

On Saturday, February 23, 1980, C-M is sponsoring a seminar on exam-taking techniques, to be held in the Moot Court Room from 9:00 a.m. - 12:00 noon. The following topics will be covered: Study methods for approaching the exam as a whole, such as reading questions thoroughly and allocating time; and techniques for approaching and answering both essay and multiple-choice questions.

The seminar is being presented by Wilton S. Sogg, Esq., an adjunct professor at C-M, and Howard Rossen, Esq., who runs the Ohio Bar Review and Writing Seminar. Although the entire student body is invited, the seminar is geared to first-year students who are particularly urged to attend.

Author, Author

The editors and staff of the Cleveland State Law Review are proud to announce the publication of Volume 27: Numbers 3 & 4. Copies of both may be obtained at the Law Review Office.

Number 3 contains an Article by Professor J. Patrick Browne and a Note by third year student Robert A. Boyd.

Number 4 features an Article co-authored by Professor Stephen W. Gard and third year student Jeffrey Endress. Also included are Notes by third-year students Patricia A. Hemann and Terrance Ahern, and recent C-M graduates Richard Kenney and Peter Tyler Enslin.

In Memoriam

The staff of the Gavel wishes to extend its deepest sympathies to the family of Steven L. Fedor, Chairman of the Moot Court Board of Governors and a frequent contributor to the Gavel. Steven’s father passed away in the early morning hours of February 6, 1980.

Blood Drive

On Wednesday, January 17, a blood drive sponsored by the SBA in conjunction with the American Red Cross was held at C-M. The turnout was disappointing, as only 56 pints of blood were donated, as compared to 80 pints donated last year.

Despite the low turnout, the SBA and Red Cross would like to extend its thanks and appreciation to all donors.

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For information: Prof. R. Folsom
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Blood Drive: Low Turnout
(see related “Briefly”)