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Bookstore Set for Operation Student Cooperation Needed

The only thing still needed is the sellers and the buyers. Everything else is set — the place, time and workers — for the book exchange to be operated by the Student Bar Association.

Time will be Jan. 2-12 for second, third and fourth year students, and Jan. 24-31 for first year students.

Place will be the Student Bar Association office, adjacent to the student lounge in the basement.

Used current editions of textbooks for next term's courses will be sold. They will be available at from one-third to two-thirds of their original price.

Hornbooks and other items will be available, in addition to texts, according to Steven Laver, senior representative, who is in charge of the project.

Sellers will set their own price, according to Student Bar guidelines. They will leave their books at the exchange, set a price and pick up the money later, if they are sold.

Buyers will pay the asked for price and a small service charge to cover cost of the project.

Books will not be stocked for courses not offered next term.

Hours will be from 5 to 6 p.m. each evening. If there is a demand, the exchange will be open earlier — and also after night classes.

Plans are that the exchange will be open during the day for first year students, if there are enough volunteers available to staff it.

Laver says the exchange sold every book it received every prior time it was operated.

But he adds that buyers have far outnumbered sellers in the past, and the biggest problem has been keeping an adequate inventory of books on hand.

Moot Court Team Praised for Brief

One of the two teams sent by Cleveland-Marshall to the National Moot Court Regional Competitions in Detroit was highly praised for having prepared the second or third best brief of the 22 briefs judged.

The competitions, which are graded on excellence of brief preparation and oral arguments, were held in Detroit on Nov. 17 and 18. Eleven law schools participated, each with two teams. Twenty-two judges and 41 practicing lawyers from the Detroit area passed judgment on the contestants.

Cleveland-Marshall was represented by Jack Budd, Bob Thomson and Jerry Wochna (for the petitioner) and Ed Becker, Alfred Thomas and James Hardiman (for the respondent). The team for the petitioners was highly praised for its excellent brief, and defeated the respondent team from the University of Detroit in the first round. The C-M team for respondent also

(Continued on Page 2)

Gavel Names Ken Hoffman As New Editor for 1968

The Gavel announces the appointment of Ken Hoffman as editor beginning with the new year. The incoming editor, who hopes to graduate in December, 1968, holds a Bachelor of Science in Journalism degree from Ohio University (1961).

After graduating from the Navy's Officer Candidate School (1961) in Newport, Rhode Island, he served nearly two years aboard USS Enterprise, nuclear-powered aircraft carrier, and two years with the Staff, Commander Submarine Forces Pacific, at Pearl Harbor.

Aboard Enterprise he steamed the Atlantic, Mediterranean and Caribbean and took part in the Cuban Blockade. Among other such duties as aviation ordnance officer, junior division officer and deck watch officer, Ken was the assistant public information officer. One of his jobs was to put out a bi-monthly

newspaper for the 5000-man crew as well as a daily newsletter. He also aided in giving personal tours to such public figures as President Kennedy, Senator Goldwater and the then Senator Humphrey.

Ken is a national member of Sigma Delta Chi, professional journalistic society, and was a member of the Honolulu chapter while living there. He is also a member of Delta Theta Phi legal fraternity.

Ken attended his first year of law school at the Dalhousie University School of Law in Halifax, Nova Scotia, Canada. While at Dalhousie, he acted as a counselor for undergraduate men and played semi-professional basketball with the Halifax Schooners.

Ken is currently employed as a claims representative with the Fireman's Fund American Insurance Company.

Vindicate the Innocent or Get the Guilty Off?

By David Lowe

Senior Professor of Cleveland-Marshall Law School, where he has taught criminal law and procedure for ten years, Professor LeRoy L. Murad is well qualified to respond to our fifth in a series of interviews. Our topic is an analysis of the stigma which seems to attach to the criminal defense attorney — does he win his cases or do his clients "beat the rap"?

A Rhodes Scholar, holder of three law degrees from Oxford, Professor Murad was called to the English Bar by the Honorable Society of Gray's Inn. Now an American citizen, he reflects both the viewpoint of the former Britisher and the British bench.

Interviewer: Does the stigma prevail in England?

Professor Murad: I am astonished at the image of the American attorney. The public would appear to have a low opinion of the ethics and morals of attorneys generally, and particularly those of the criminal bar. This is not so in England, where the image is of the highest order, and particularly with respect to the criminal bar. The public has the greatest confidence in the barrister, and this is one reason why he leads such a sheltered life. He is not permitted to see the public direct — this is the solicitor's job. The barrister cannot see his witnesses; they are interviewed by the solicitor. The barrister can see technical witnesses who might wish to instruct him but only in the presence of the solicitor. Apart from this, the barrister is not allowed to see witnesses, and will be disbarred if he attempts to do so.

Interviewer: It has been said that the Americans are "prosecution-minded." Are the British?

Professor Murad: No — they're more for the underdog. The Eng-

lish have a great horror of an innocent man being convicted and will go to great lengths to prevent it. Far better that a guilty man go free than an innocent man be convicted.

Interviewer: Is there a presumption of innocence in the British system?

Professor Murad: The prosecutor must prove his case beyond a reasonable doubt. One is presumed innocent until proved guilty.

Interviewer: In the absence of a written constitution in England, what guarantees the accused his rights in a criminal case?

Professor Murad: The Judges' Rules were adopted in 1912 and expanded in 1918. They are regarded as law — not legislation. The U.S. Supreme Court decisions on criminal procedure are old hat as far as I'm concerned and are completely in accord with British practices since the issuance of the Judges' Rules.

Although there is no such thing as right to counsel in England, they arrive at the same point by the system of "dock briefs." When the prisoner is arraigned at the "dock," he is asked if he has counsel and, if not, he is entitled to point to any counsel in the courtroom and ask that counsellor to defend him. The counsel does so completely free of charge, and is very happy to do it.

Interviewer: Are there many acquittals in England by virtue of technicalities?

Professor Murad: Yes. The British view is that there are rules to guide the police, the prosecutor and the defense. If these rules are deliberately ignored, then you do so at your own peril. In America, it seems that the public feels that the defendant was gotten off by a shyster lawyer.

Interviewer: Getting a client off,

then, wouldn't particularly bother the British?

Professor Murad: It is viewed by the English bar and bench that if a technicality should have been known by the prosecutor and was overlooked, but the defense recognized and used it, there is nothing wrong with this. It is simply a case that one was more competent than the other.

(Professor Murad practiced in England as both prosecutor and defense counsel. In 1947, he was appointed Crown Counsel and in 1952 was appointed Magistrate, serving five years in Jamaica. Questions were asked of him from the judge's viewpoint.)

Interviewer: How does the British bench view a defendant's "getting off"?

Professor Murad: There is a slight difference between the English and American bench in that the English judge plays a bigger part in the trial — he tends to ask more questions, and is not adverse to himself drawing the prosecution's attention to any technicality that might have been overlooked in order that justice might be done. The unwritten motto of the bench is *Fiat justitia ruat coelum* ("Let justice be done though the heavens fall"). The bench in its endeavor to see justice done would never permit counsel to be so taken by surprise than an obviously guilty man might go free.

Interviewer: Both Houses of Parliament have, this year, passed a majority-verdict rule (criminal jury verdicts now require only a 10 to 2 majority for conviction). The Lord Chief Justice contended that a unanimous verdict allowed acquittals for "many, many guilty persons." What's your opinion?

Professor Murad: I think that Lord Parker is right — greater jus-

tice will now be done with the majority verdict rule.

Interviewer: Would the British bench tolerate counsel getting a client off by virtue of questionable practices?

Professor Murad: The English bench has a high regard for and confidence in the integrity of the barristers appearing before it, and would certainly not tolerate such practices.

Interviewer: Do you think that the barrister handling the defense has any advantage over the prosecutor?

Professor Murad: The prosecutor has the duty to present the case — that is all. The attitude that one must win at all costs is the furthest thing from his mind. He presents the case in a competent manner and lets the jury decide. Coupled with the British horror of convicting an innocent man, the defense might very well have an advantage.

Interviewer: How does the British public look upon that attitude?

Professor Murad: They feel that if a prosecutor were encouraged to make a conviction the be all and the end all, the prosecutor might be tempted to suppress evidence that might be in favor of the defense. This all comes under the heading of "playing cricket" — being fair — or, as we Americans call it, "due process."

Interviewer: American criminal defense attorneys have often been criticized by the public for taking advantage of the Supreme Court decisions of the 1960's to the extent of getting their clients off. What are your thoughts on the subject?

Professor Murad: I feel that no harm at all has been done to law enforcement officers in the pursuit of their duties. It only means that there is no shortcut to obtaining convictions — that the so-called "third degree" was very bad — and

that convictions can still be obtained by proper police work done in keeping with the rules. The new decisions do nothing else but properly interpret the Constitution and I certainly do not view them as new law. The law was always there to be properly interpreted.

Interviewer: Does the British courtroom see the "Perry Mason" type antics that many Americans think prevail in U.S. courtrooms?

Professor Murad: The era of histrionics came to an end with Sir Patrick Hastings in 1942. The attitude of the people changed, toward courtroom behavior, and its changing in this country.

Interviewer: Many Americans seem to think that F. Lee Bailey, for example, is of the histrionic type. What do you think of him?

Professor Murad: I have the highest admiration for F. Lee Bailey, and I happen to know that he is a great advocate of the British system of having two branches of the profession, namely barristers and solicitors. He would like to see that system in the U.S.

Interviewer: Do any procedures in the American system bother you particularly?

Professor Murad: There are two practices that particularly bother me; first is the "record of arrest." I do not regard an arrest as a criminal record. A proper record is a record of conviction. A mere arrest should never be held as a "record" to be given to newspapers for example, before trial as this prejudices the jurors. I am all in favor of the ABA Reardon Reports. The other practice that equally horrifies me is that of the police and counsel in openly criticizing the bench after a decision that is not to their liking. This *by no means* helps to inculcate in the minds of the public the respect that should at all times be accorded the bench.

Well, the time has come. This is my last issue as editor of the Gavel and my last month as a student at Cleveland-Marshall. I can't help but be nostalgic at thinking of my four years at C-M.

Sure, there have been problems but, Cleveland-Marshall is a good school. With some obvious exceptions, the faculty is a professional one. The administration has exhibited unquestioned competence and understanding.

Parting Comments Re C-M

ance is necessary for present students.

In the offing, possibly, is the union of Cleveland-Marshall and Cleveland State. The potential of the two institutions acting as one is an exciting idea. The beneficiaries of such a merger would not only be the students, but the community.

And, we are anticipating the appointment of a new Dean. To the best of our knowledge, the screening committee has not even submitted any proposals to our trustees, but we are confident that when they do the trustees will act in the best interests of the students of Cleveland-Marshall and appoint a dean the students can respect and with whom they will be able to communicate.

Land, with the new year, the Gavel has appointed a new editor, Ken Hoffman. He knows how to get out a paper and I am anticipating that he will boarden the scope of the paper even further. He is committed to maintaining a free press, and I am sure, will always act in the best interest of the students.

But, no editor and no elected representative can really be effective without the support of the student body. In order to maintain our identity in the face of a possible merger with Cleveland State and the growth of a day school, the night student cannot remain apathetic. It's the responsibility of the present students to set an example of active concern for incoming students. I firmly believe that we have one of the best student bodies in the country and only by participation can we realize our full potential.

I would like to express my sincere appreciation to my staff, who exercised their responsibility to participate. They have made bi-monthly publication of the Gavel possible, an ambitious task for night students.

And finally, I would like to express the appreciation of the Gavel to Dean Emeritus Stapleton and Interim Dean Oleck. They have consistently supported the Gavel and encouraged its growth. Whenever the freedom of the Gavel to inform was threatened, these two men refused to place expediency above freedom of the press. Thus, we have always been able to publish a paper whose integrity was not compromised without concern for our position as students. I would also like to thank these men for their dedication to Cleveland-Marshall. Their impact will be evident many, many years after we are no longer students.

Letter to the Editor

Dear Editor:

The members of the moot court team wish to take this opportunity to express our gratitude to Miss Helen Garee and her library staff for their wonderful cooperation during our recent endeavors on the moot court. Miss Garee even made a separate room available to us for our research so we would not disturb the other students in the library.

This letter is simply a formal declaration of our thanks to her for her efforts in our behalf.

Sincerely,
Robert Thomson
John Budd
Edward Becker
Albert Thomas
Gerald Wochna
James Hardiman
Joseph Rubin
Donald Tabb
Wendel Wellman

The Gavel

The Gavel is a publication of the students of Cleveland-Marshall Law School. Published twice a month during the school year.

Editor: Mildred Schad

Staff:

David Lowe, Ralph Kingzett, Nancy Schuster, Ken Hoffman, Jim McMonagle, Bill Summers.

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The Razor's Edge

By NANCY SCHUSTER

... On the other hand, we could care less about trash cans, elevators, marriages and coffee breaks, especially when published in a criticizing an derogatory manner... "just present the facts mam." Some of us are no longer in undergraduate school. Some of us are too old to beef about petty matters and some of us are just too darn glad to be here another year to "knock it." ...

Names withheld by request

* * *

Dear Aunt Nancy,

Thank you for that sweet story you sent me last month.

Although you said the school in the story was mythical, I thought, somehow, it might be Cleveland-Marshall Law School of Baldwin-Wallace College that you were describing. So I called Baldwin-Wallace. "Silly child," they said, "are we the type of institution to sport a law school? There absolutely is no center of learning such as the one you name—and there never has been."

Well, that's too bad. You see, yesterday two masked gentlemen stopped me to inquire of a law school they might attend. They said they didn't care what was taught—or how—they just would be glad to get degrees and go to

football games on Saturday. "We're not concerned with trifles like the quality of instructors, or the subjects taught, or student involvement," they explained, "we merely want to pass the courses, whatever they are. And we sure don't want any nosy school newspaper to ruffle the waters and maybe upset one of our professors. Besides, we won't use the lounge, "cafeteria," or library so we don't care about them either. We promise you this: the school we choose will be super to us—we'll be so filled with joy just being there we'll never scrutinize anything."

I would send you their names, Aunt, but they refused to give them. They just strode off toward city hall humming, "My Marshall, Tis of Thee . . ."

Love,
Virginia

* * *

Dear Virginia,

Your letter has opened my baby blues. I realize now that the problems of Cleveland-Marshall are small and insignificant and probably don't really matter" any way. I mean—does Ho Chi Minh care about the coffee line? Is the Red Guard shouting, "Down with the elevator?"

Henceforth I shall set down only momentous pronouncements. I shall confine myself carefully to the worthwhile.

Um

1. The Viet Nam War: That's worthwhile.

Easily solved if only everyone will mind his own business. The Vietnamese shouldn't pay attention to who governs them—or how—they should be happy just to live there.

2. Urban Decay:

Basically nothing but a lot of

insignificant complaints.

3. Pollution:

This can be divided into water, air, and just. Make Benny Blauschild president of Republic Steel.

4. Liquor, Acid, Pot, and Speed: Reagan for President!

5. The Growing Similarity in Appearances of the Sexes:

The British have a great deal more experience with this sort of thing. After all, their barristers have looked that way for years. So has Twiggy.

Advise a London acquaintance: "A book has never been told by its cover."

6. Poverty in an Affluent Society:

a) Tax the affluent into poverty.

b) Do not solve worthwhile problem 1.

7. Is There a God?

Tho men have endlessly pondered this problem, the answer is, (as we lawyers are wont to say) patently immaterial.

For instance:

If there is a God will it change what happened at Waterloo? If there is not a God will it change what happened at Dunkirk? The world revolves whether or not we discover the secret of the universe. Problems 1 through 6, need solving. But what will change with the solution of problem 7?

And so, Virginia, the world is not a bang but a multitude of whimpers. Some are loud and wailing and beyond our particular power, yours and mine. Some are only small and annoying, but by their smallness might be solved by the likes of us.

Now if you will excuse me, I have one hour till class, so I must join the line at the coffee machine.

Aunt Nancy

Request for Law Review Reprints

Michigan's Institute of Continuing Legal Education has selected an unprecedented 12 articles from the Cleveland-Marshall Law Review to be included in a book it will publish on tort liability of hospitals.

The articles were selected from several issues of the law school's three-times-a-year publication.

Acting Dean Howard L. Oleck said no more than two were selected from any other law review.

The institute is cosponsored by the Michigan State Bar Association, University of Michigan Law School and Wayne State University Law School.

"Trial," the magazine of the American Trial Lawyers Association, has also selected a Cleveland-Marshall Law Review article for reprinting. Entitled "Negligent Design of Sports Facilities," it was published in last May's Law Review.

Its author's Bernard Mandel, a fourth year student.

Mandel holds a bachelor's degree from Western Reserve University.

From the same edition, the Insurance Law Journal has selected for reprint "Landlord's Liability for Ice and Snow," authored by Michael R. Gareau, a 1967 graduate of the school.

Gareau did his undergraduate work at Kent State University.

Law Review Digest has selected an article from the September Law Review, "Legal Aspects of Police Radar," for reprint.

Its author is William K. McCarter, a June graduate, who received bachelor's and master's degrees from John Carroll University.

Journal of Chemical Education has chosen "Laboratory Accident Liability: Academic and Industrial" from the January, 1967 Law Review for reprint.

Its authors are Thomas M. Schmitz, a June graduate, and Ralph K. Davies, associate professor of Chemistry at Baldwin-Wallace College.

Schmitz, a registered professional engineer, is a graduate of Case Institute of Technology.

Defense Research Institute, sponsored by the Illinois Defense Counsel Association, has selected a May, 1965 Law Review article for reprint in a book which will supplement oral presentations at a law student seminar it will conduct.

Title is "Duty of an Attorney Appointed by a Liability Insurance Company." Its author is Jerry Brodsky, a 1965 graduate who did his undergraduate work at Temple University.

The seminar is sponsored by Lumbermen's Mutual Casualty Co.