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Cleveland-Marshall College of Law

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# THE GAZETTE

"The hottest places in Hell are reserved for those who, in a time of great moral crisis, maintain their neutrality"

.... Dante

The Student Newspaper of The Cleveland State University College of Law • Cleveland, Ohio

Volume 20 • No. 18 • May 1, 1972

## LAW DAY 1972

# PRESIDENTIAL PROCLAMATION

Reminiscing once about his long and distinguished career in the law, the late Felix Frankfurter pointedly recalled how a dispute over a legal question had ended with a colleague on the Harvard Law School faculty.

"You take law awfully seriously," his friend chided him.

Yes, Professor Frankfurter replied quietly, "That's one accusation against which I plead guilty without reservation."

"I do take law very seriously," he maintained, "because fragile as reason is and limited as law is as the expression of the institutionalized medium of reason that's all we have standing between us and tyranny of mere will and the cruelty of unbridled, undisciplined feeling."

As America prepares to celebrate this year the fifteenth annual observance of Law Day, USA, we have only to reflect for a moment upon the

impact of law in order to appreciate the reverence in which it was held by Justice Frankfurter.

Unquestionably, the rule of law underlies our entire social, economic and governmental structure. Under it, men and women can buy and sell, marry, express their personal opinions, and engage in a vast array of other activities with the assurance that their contracts will be enforced and their liberties protected. Without it, America would not have realized its unparalleled growth in prosperity, individual freedom, and equality of opportunity.

Law Day is not a day set aside for lawyers, but was established by the Congress to encourage every citizen to think anew of the central role of law in our society. This year many observances will be designed to promote greater efforts to renew our governmental institutions, strengthen the



legal structure, and encourage a wider acceptance of the responsibilities of citizenship. The law, as Daniel Webster said, "has honored us, may we honor it."

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby request the observance of Monday, May 1, 1972, as Law Day in the United States of America.

And, as requested by the Congress, I urge that our people observe Law Day with appropriate public ceremonies, through public bodies and private organizations, in schools and other suitable places. I especially request that the legal profession, all media of public information, and the courts take the lead in sponsoring, participating and publicizing observances throughout the Nation. And, I call upon public officials to display the Nation's flag on public buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of February, in the year of our Lord, nineteen-hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

*Richard Nixon*

Richard Nixon

LAW  
DAY  
U.S.A.  
MAY 1.

### THEME

"Freedom of Speech: Its use and abuse in the United States and the Communist Countries."

## HOLIDAYS OR HOLY DAYS

# DIFFERENT STROKES

by Prof. David B. Goshien

On May 1st when I was a child we celebrated May Day at our grammar school. We weren't Communists, but it was thought to be an Olde English custom, a sort of *sacre du printemps*, dressing the children in pink shirts and green shorts to dance around a Maypole hung with streamers of like colors (note the conspicuous absence of Red). At that time, this country was at war, but good old Russia was on our side, and bought us enough time on Germany's Eastern Front for us to concentrate on some problems in the Pacific. So the first of May was not exactly a Holy Day for us as children, but it had some slight or silly significance as a Spring Festival.

For many millenia, new religions and countries, in the infancy of their first five hundred (500) years, have been bothered by the continuation of old holidays and festivals belonging to the them, the other side, the barbarians, the great unwashed, the xenoi for whom we naturally feel a combination of hate and fear. Witness the development of counter-attack by Judaism (called Passover) against the spring celebrations of the pagans, and the reciprocal counter-attack by the next emergent religion, Christianity: they took over the holiday which persisted, and changed it to Easter. Cf. the parry of a minor holiday, Chanukah, which has grown up to compete with Christmas!

Now the United States has created a "new tradition" on May 1st: LAW DAY. The popularity of May Day in the Communist world, at a time when

we were no longer buddies in arms with the leader of half the world, became so great that the childish ritual of the Maypole could no longer cope with it. It became necessary to create a counter-holiday (or Holy Day), to honor the single most outstanding feature of freedom. Our own Revolution began in the Spring also (a time-honored custom which still continues on many campuses, although having abandoned its ancient form of panty raids), but inconveniently not on the first of May at either Lexington and Concord, which gave us Patriots Day on April 19th, or rebellion in Mecklenburg County and their highly individualistic Declaration of Independence on May 20th.

Most of the First Annual Holidays created by proclamation have sunk into a common lack of renown; Donut Day and National Tavern Month enjoy the sponsorship only of Madison Avenue. But Law Day has come to stay, and has begun in its first decade of existence to represent a true counter holiday. The Bar Associations and the law schools have begun to develop the new tradition, to put flesh on the skeleton of a fledgling institution. Historically and politically it is a good thing to take the time and effort to express (and improve) our understanding and appreciation of the Rule of Law in this country. Who knows, the idea may some day compete with the main opponent among its predecessors and sweep the world. Can't you just picture Communists and Democratic Republicans

alike, forsaking their anniversaries of rebellions as unimportant and jointly celebrating their mutual, abiding respect for a government of laws and not of men?

But a little of the child remains in the man, just as a little of the old holidays remains in the new: the nagging remembrance that cannot be dismissed. The wisdom of compromise is dictated by age. Personally, I still feel the urge to don my old pink shirt and green shorts and skip gaily around the pole while holding a streamer. I never know quite what to do except change directions periodically. Maybe that is the best, if not the only thing to do. Then we could all celebrate together an amalgam of all the old and new Holy Days on the first of May, with something for everyone.

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# A RUDE AWAKENING

(Editor's Note: The facts stated herein are unsubstantiated by the editors of the Gavel. Nevertheless, the Guest Editor can substantiate all facts presented in this editorial.)

The Editors would like to state that the problems presented are not peculiar to the first year class and also are not unique to our law school. The disparity of grades has always existed between night and day classes. This editorial adds a new dimension—disparity of grades between the day sections.)

A.—A teacher's raison d'être is to pass on the accumulated knowledge of mankind to those members of society who have not yet had the opportunity or the necessary experience to acquire that knowledge.

B.—The responsibility of a student is to acquire as much of this knowledge as he can from any source available, and then to use this as a foundation upon which to build and expand his own ideas so that those students who come after him will have a greater reservoir of knowledge from which to draw.

C.—The function of an educational institution is to bring the students and teachers together in an educationally stimulating atmosphere so that both may function optimally.

These may sound like lofty ideals, but they are basic to the survival and growth of any species, any society, or any institution—and that includes this law school. How well does Cleveland State University School of Law perform its function so that its students may perform theirs? A brief examination of one year's experience will present a very revealing answer to this question.

First of all, it must be clearly understood that the most important and the only indispensable inhabitants of any educational environment are the students. Schools are not established to employ teachers or administrators, but to teach students. Without students, there would be no need for schools, administrators, or teachers, and only a dismal outlook for the future of mankind. The young must learn and improve upon the knowledge and skills developed in the past in order to improve the future. In order to best acquire this knowledge and skill, students must be provided with an environment, both physical and psychological, that is not only conducive to learning, but which encourages it. No educator would disagree with that statement, but it should be necessary for me to do no more than mention the lack of adequate library facilities and the noisy and uncomfortable conditions in most of the classrooms to convince anyone that the physical environment at C.S.U. School of Law is less than ideal. But what about the psychological environment?

Most educators and psychologists agree that the psychological aspects of a

learning situation are generally more important than the physical in determining how much and how well a student learns; and it is in this area that this law school falls flat on its academic face! For example: How encouraging is it to be told on your first day of class that a pre-determined percentage of your class will not survive the year? How conducive to learning is it to be assured on the one hand that learning, not grades, should be your goal; and then to have a professor tell you that because he has taught for twenty years, he will never teach a non-graded course? What effect does it have on a student when he realizes that his grades do not depend upon what he knows, but rather upon whether he takes a course before or after sunset, or upon the luck of his being placed in a class taught either by a professor who feels that no one should be failed or by one who is a self-appointed "hatchet man"? How much respect can a student be expected to have for a professor who consistently loses or neglects to grade assignments that have been turned in to him or her; or for a professor who grades an entire Brief Writing class's rough drafts as finished briefs? And how is a student supposed to react when his professor announces midway in the quarter that 10 or 15 students will fail his course that quarter, when that professor has no objective criteria on which to base such a statement?

These are not merely rhetorical questions based on hypothetical situations. Every one of these incidents has occurred this year, and this list is far from being exhaustive. The answers to these questions will clearly show the type of environment in which the students at this law school are expected to learn—but we have learned! We have learned such arts as "professor shopping", ass kissing, and backbiting. We may also have learned some law, but it was merely incidental to the primary goal of getting grades, which, after all, is spelled S-U-R-V-I-V-A-L.

As I have said, the situations described above are by no means the only ones which contribute to the poor learning climate that permeates this law school. I have not even mentioned the faculty-administration wars, the faculty infighting, the student-faculty and student-administration tensions. All of these problems and more add up to a condition that would not even be permitted to exist in a well administered nursery school. Yet Cleveland State University School of Law calls itself a "professional" school. Perhaps it is naive of me to believe this, but I think that a professional school should be operated in a professional manner by professional people. What is perhaps even worse, I am still naive enough to believe that it could happen here some day. I just hope it does happen—and soon. My naivete is fast losing ground to cynicism.

## LETTERS TO THE EDITOR

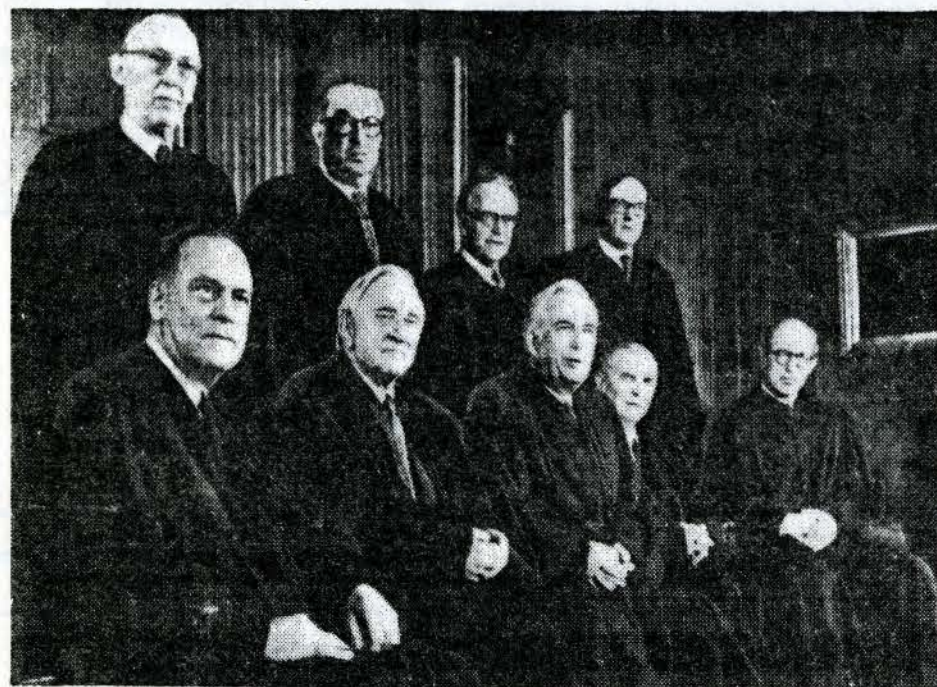
This issue we will not publish any letters to the editor. All letters submitted to the Gavel will be published in the next issue.

LETTERS TO THE EDITOR ARE TO BE SENT TO THE GAVEL OFFICE—THE CLEVELAND STATE UNIVERSITY COLLEGE OF LAW, 1240 ONTARIO, CLEVELAND, OHIO 44113.

YOUR COMMENTS SHOULD BE LIMITED TO NO MORE THAN 150 WORDS. THE GAVEL RESERVES THE RIGHT TO SHORTEN LETTERS THAT ARE OF AN UNREASONABLE LENGTH. WE ALSO ASK THAT THE LETTERS BY TYPED OR PRINTED.

AS YOU KNOW IT IS THE POLICY OF THE GAVEL TO PUBLISH ONLY SIGNED LETTERS. DESPITE REASONS GIVEN BY THE WRITER, WE MUST DEMAND THAT THE WRITER GET INVOLVED ENOUGH TO PUT HIS NAME BEHIND HIS WORDS.

## United States Supreme Court



**JUSTICES POSE FOR PHOTO** — Justices of the Supreme Court of the United States posed for their annual official photograph. Seated are Justices Potter Stewart (left), William O. Douglas, Chief Justice Warren Burger,

Associate Justices William J. Brennan Jr. and Byron R. White. Standing are Associate Justices Lewis F. Powell Jr., Thurgood Marshall, Harry A. Blackmun and William H. Rehnquist. (UPI)



THE  
GAVEL



Cleveland State University

College of Law

LAW DAY

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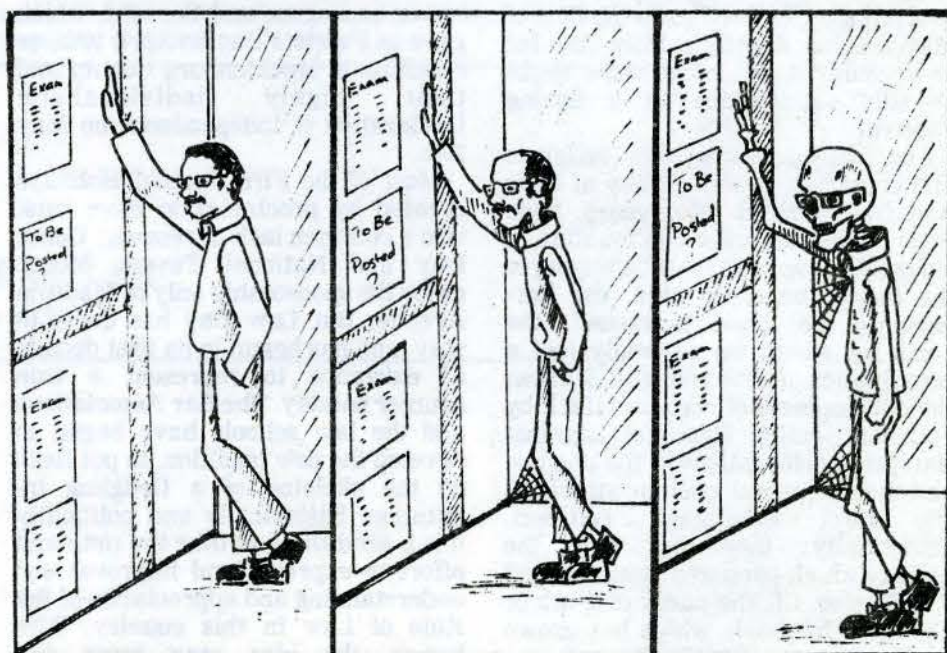
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The views expressed herein are those of the newspaper or its by-lined reporters and contributors, and do not necessarily reflect the views of the student body, administration, or faculty of the College of Law or The Cleveland State University unless otherwise specifically stated.

## WAITING, WAITING



Reprinted from The Texas Tech Dictum



# STERN PROPOSAL

By Paul T Kirner

The Cleveland State University Cleveland-Marshall Law School Alumni Association paid homage to two of their distinguished alumni—judge Joseph H. Silbert (Class of '23) and Judge Daniel H. Wasserman (Class of '25).

The Annual Alumni Award Luncheon was emceed by the Alumni Association's President Thomas J. Scanlon.

Dean Craig W. Christensen presented a statistical analysis of our alumni. He told the audience of over 700, that the Cleveland-Marshall alumni have more judges on the bench, and more men in the legislature than any other law school. While CSU is increasing in size, we are also increasing in the quality of our student body. The Dean said that there will be over 2,500 applications for the 300 seats available at the law school. Dr. Christensen expects to admit students from the 80th and 90th percentile of those who have taken the LSAT.

After the presentation of awards by the honorable Judge John M. Manor to the outstanding alumni for 1972, Carl Stern (Class of '66) presented "A Candid Look at the Supreme Court". His opening remark was that he would be unable to attend Cleveland State's Law School today. The admission standards are too high. (Mr. Stern graduated magna cum laude from C-M.)

The Candid Look at the Supreme Court was a critical analysis of the Justices. Mr. Stern, apparently liberal oriented, stated that Chief Justice Warren Burger was more an "administrator; worried about fine details and not the flavor of Supreme

Court decisions. His (Mr. Chief Justice Berger's) test in his decisions seems to be whether or not the result is socially useful."

Carl Stern believes that the social usefulness is the job of the House and Senate, and not the United States Supreme Court.

While Harry A. Blackmun and his "Minnesota Twin" the Chief Justice have agreed on most decisions, Stern believes they are splitting up. "White and Stewart are becoming the leaders of the Supreme Court." Mr. Stern said Justices Byron White and Potter Stewart will hand down the decision making opinions in the future.

Mr. Stern ended by emphasizing the great influence President Richard M. Nixon is making in changing the face of our United States Supreme Court. When considering Justice Thurgood Marshall's questionable health, he believes President Nixon will soon be in a position to nominate a fifth Justice. He added that President Nixon has not tried to balance his Supreme Court nominees with representatives of liberal point of view. "On the contrary," said Stern, "President Nixon has nominated four men who mirror a Nixon political philosophy. No, Nixon will not be completely satisfied until he has an eight to one conservative United States Supreme Court."

The Annual Alumni Award Luncheon was a huge success for the awardees Judges Silbert and Wasserman, the alumni and the law school. The 700-plus alumni who attended the luncheon all agree that we have a law school with a proud heritage.

## EXAMINER SPEAKS ON OHIO BAR EXAMINATION

Mr. Patrick F. McCartan will speak to the senior class and all interested students, on the Ohio Bar Examination. Mr. McCartan has been on the Board of Examiners three years. He will present the materials to the students on May 3, 1972 at 5:00 in room 102.

## SILENT FIRST AMENDMENT

Bill G. Aldridge in a letter to the editor of the St. Louis Post Dispatch wrote: "When the vocal minority advocate the belief that the earth was round instead of flat, who supported the view of a flat earth? The silent majority! When the vocal minority proposed that the sun and not the earth, was at the center of the solar system, who offered death or imprisonment to those who held this view? The silent majority! When the German Reich systematically murdered six million Jews, what group of German people gave silent support to the government? The silent majority!"

## UNIVERSITY ASSEMBLY COMMITTEE REQUESTS STUDENT INPUT

The University Assembly Committee, under the Chairmanship of Assoc. Prof. David B. Goshien of the College of Law, will be meeting shortly to discuss the preliminary choices of the Committee for next year's assemblies.

Prof. Goshien and the Committee are most interested in obtaining from all students their suggestions, criticisms and points of view. Therefore, the attached clip-out form should be filled out and returned to The Gavel in a box provided for the purpose in the administrative office of the College of Law, or mail it to David Goshien, 1240 Ontario St., Cleveland 44113.

This academic year the Assembly Committee arranged to bring to CSU: The Performance Group, Gov. Gilligan, Peter Max, Mark Talisman, Gloria Steinen and Dorothy Pitman Hughes, Dr. H. W. Janson, Dick Gregory, Pierre Boulez, William Stafford, Vernon Crawford and A.J. Cooper Jr.

It should be carefully noted that



## REPORT ON ABA/LSD COLUMBUS CONVENTION

By Dave Fishbein

March 31, through April 2, the Sixth District of the Law Student Division of the American Bar Association met at the Christopher Sun, Columbus, Ohio. The Sixth District is comprised of law schools in Ohio, Michigan, Tennessee and Kentucky. Cleveland-Marshall was represented by a delegation of seven students.

The main purpose of the convention was to elect a new district governor to head the Sixth District Cleveland-Marshall ran Dave Forrest who lost by a scant margin; however, as a result, Cleveland-Marshall will have an excellent chance to run a candidate for National office at the Nation LSD-ABA convention in San Francisco this August.

Other topics of discussion included: improvement of the Sixth District Moot Court Competition, problems confronting law schools with both day and night programs, obtaining funds through the Law Student Services Fund for individual school projects and possible ways to induce law school faculties and administrations into a more responsive and a more meaningful relationship with their students.

Anyone who is interested in working for the Law Students Division of the American Bar Association, please contact Dave Fishbein, through the Gavel, the Student Bar Association or in the hall.

## DELTA THETA PHI FOUNDER'S DAY

On Thursday May 4, at the Cleveland Yacht Club, Delta Theta Phi, the nation's largest, professional legal fraternity, founded at Cleveland Marshall Law School in 1901, will hold its annual Founders' Day celebration.

Judge John D. Manos of the Cuyahoga County Court of Appeals, Judge Herbert Whiting of the Common Pleas Court, the Honorable Chief Justice John V. Corrigan of the Common Pleas Court, and other well known figures in the Cleveland legal community are expected to be in attendance. There will be a banquet and open bar. Any member interested in attending should contact Jay Newberry.

1. My suggestions for categories of interest (e.g. art, music, civil rights, economics) are, in order:
2. My suggestions for speakers, lectures, performers, etc. are in order:
3. My suggestions for additional or alternative assembly programs (films, displays, etc.) are:



# SBA PROPOSED CONSTITUTION

*This is the new Constitution as proposed by the Student Bar Association.  
A referendum to ratify this Constitution will be held May 1, 2, and 3rd from  
11:00-2:00 P.M. and from 5:00-6:00 P.M., and 7:30-8:30 P.M. in the Basement  
Student Lounge.*

## PREAMBLE

IN ORDER TO provide an effective and visible body for the development of the Cleveland State University Cleveland Marshall College of Law, and to pursue the interests of all students enrolled therein, and in addition to exercise the powers and authority delegated to us by the Board of Trustees of the Cleveland State University  
WE THE STUDENTS of the Cleveland State University Cleveland Marshall College of law do hereby establish the STUDENT BAR ASSOCIATION to bring all the foregoing powers and authority into execution and adopt this constitution to govern its operations.

## ARTICLE I Delegation of Authority

There shall be an organization charged with the responsibility of representing the interests of the students enrolled in the Cleveland State University Cleveland Marshall College of Law and it shall be known as the Student Bar Association.  
1—There shall be an organization charged with the responsibility of representing the interests of the students enrolled in the Cleveland State University Cleveland Marshall College of Law and it shall be known as the Student Bar Association.  
2—The Student Bar Association is hereby delegated the authority to exercise all powers and authority delegated to the students as well as all other powers delegated to it now or at any time hereafter.

## ARTICLE II The Student Bar Association

1—Composition.  
The Student Bar Association shall be composed of a President, Vice-President, Treasurer, Secretary and so many Student Senators as shall be determined under S 2 of this article.  
2—Student Senators.  
There shall be a student senator elected for each first year day section, first year night section, second year day class, second year night class, third year day class, third year night class and fourth year night class; one each for every thirty (30) students or part thereof enrolled in each respective division above. The number of students enrolled in each division above shall be determined as of the fourth Monday of the quarter wherein the election will be held.  
3—Additional Representation.  
In addition to the minimum representation provided in SS1 and 2 of this article, IF at anytime the Student Bar Association, as comprised pursuant to SS1 and 2 above, shall determine that more representation is desirable, it shall have the power to provide for additional representatives by enactment of a by-law in the mode and method hereinafter set forth for the enactment of a by-law.  
4—Explanatory.  
The only votes that will be counted toward the election of any representative provided for in S 2 of this article will be those cast by the students enrolled in the respective division from which the candidate is running.  
5—Effective Date.  
Sections 1 and 2 of this article shall become effective on the first Monday of the Spring Quarter of the year 1972.

## ARTICLE III Elections

Sub. S A—Election of Officers.  
The President, Vice-President, Treasurer and Secretary shall be elected by a majority of those voting and entitled to vote in a general election of the student body to be held in a manner and mode to be determined by the Student Bar Association in its by-laws.  
Sub S B—Election of Senators  
Each Senator provided for in S 2 of Article II shall be elected by a plurality of those voting and entitled to vote under S 4 of Article II, the election to be held in a manner and mode to be determined by the Student Bar Association in its by-laws.

## ARTICLE IV Power and Eligibility

1 The President Shall have the power and responsibility:  
Cl. A To represent the Student Bar Association to the Trustees, to the Administration, to the Faculty, to the Students and to the Community, and  
Cl. B To call both Special and Regular meetings of the Student Bar Association, provided he does so in compliance with the by-laws of the Student Bar Association, and  
Cl. C To vote only when such vote is necessary to decide a question upon a vote where the Student Bar Association is evenly divided, and  
Cl. D To appoint the Chairmen of all Special and Standing Committees, and

to determine the number of members thereof, which members shall then be appointed by the Student Bar Association pursuant to sub-section Five of this article, and

Cl. E To be responsible for preparing and submitting a budget for the year's expenditures on behalf of the Student Bar Association, which budget shall be inoperative unless passed upon affirmatively by a majority of those Senators present and voting at the meeting wherein the budget is submitted.  
Cl. F No person shall be eligible for candidacy and election to the Office of President of the Student Bar Association until he or she shall have been enrolled at Cleveland State University Cleveland Marshall College of Law for a period of one (1) academic year.  
2 The Vice-President  
Cl. A Shall assume the duties of the President in his absence or incapacity; which absence or incapacity shall be determined by the Student Bar Association in accordance with the by-laws, and  
Cl. B Shall be a non-voting member at large of all Special and Standing Committees with the exception of the Appropriations committee of which he shall be a voting member, and  
Cl. C Shall have the power to cast one vote any any meeting on any matter.  
3 The Treasurer  
Cl. A Shall submit at each regular meeting, a report of the financial condition of the Student Bar Association, and  
Cl. B Shall collect and forward all receipts to the University and shall promptly disburse all appropriated funds, and  
Cl. C Shall be Chairman of the Appropriations Committee, and  
Cl. D Shall have the power to cast one vote at any meeting on any matter.  
4 The Secretary  
Cl. A Shall be responsible for recording, preparing and maintaining a cumulative record of the meetings of the Student Bar Association, and  
Cl. B Shall be responsible for forwarding all communications of the Student Bar Association, and  
Cl. C Shall have the power to cast one vote at any meeting on any matter.

5 Senators  
Cl. A Shall each have the power to cast one vote at any meeting on any matter, and  
Cl. B Shall exercise all powers and responsibilities vested in them by this constitution.

## ARTICLE V REPEAL

THIS SHALL BE THE sole Constitution by which the Student Government of the Cleveland State University Cleveland Marshall College of Law, otherwise known as the Student Bar Association, will be governed.  
ALL OTHER CONSTITUTIONS ARE hereby repealed.  
THIS CONSTITUTION SHALL BECOME effective twenty-four (24) hours after a majority of those students voting and enrolled in the College of Law, cast an affirmative vote.

## ARTICLE VI AMENDMENTS

1 This Constitution may be amended at any regular meeting of the Student Bar Association by three-fourths ( $\frac{3}{4}$ ) affirmative vote of the members present and voting; provided that the proposed amendment was first submitted in writing and read at two (2) consecutive regular meetings of the Student Bar Association and a copy was sent by mail to each member at least one week prior to the second reading, and was posted for the general information of the Student Body at least two (2) weeks prior to such affirmative vote.  
2 The proposed amendment must be endorsed by signatures of not less than three (3) Senators before being submitted to the Student Bar Association, or the proposed amendment must be endorsed as a petition by no less than sixty (60) members of the Student Body.  
3 Within one week after the affirmative vote by the Student Bar Association, a notice of such amendment shall be posted for the general information of the Student Body.

## ARTICLE VII By-Laws

The Student Bar Association shall enact and-or repeal all by-laws necessary to exercise its powers and responsibilities by a two-thirds ( $\frac{2}{3}$  rds) vote of those present and voting at a properly constituted meeting of the Student Bar Association provided however that the originally proposed by-law be read into the minutes at the meeting immediately preceeding the one in which the vote will be taken. Any by-laws standing at the ratification of this Constitution shall stand after its ratification but only insofar as they do not conflict with any provisions of this Constitution.



**THE  
GAZETTE**

**CLEVELAND STATE UNIVERSITY COLLEGE OF LAW**  
1240 Ontario Street • Cleveland, Ohio 44113

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THE STUDENT BAR ASSOCIATION  
OF  
THE CLEVELAND STATE UNIVERSITY  
COLLEGE OF LAW

Personally Invites You  
to Attend the

**BARRISTER'S BALL**  
Dinner and Dance

June 10, 1972  
The Sheraton Cleveland Hotel  
Gold Room  
7:30 p.m. to 1:00 a.m.

Dress: Optional