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Tackling hate

Former UN counsel David Forte describes America's efforts to curb the burgeoning persecution of Christians across the world. **LAW, PAGE 2**



About face

1Ls, you'll try to forget this semester forever. Compare notes with us to see how well you handled the Socratic method. **SIDEBAR, PAGE 10**



A day in the life: Russia

Ann Vaughn recalls the nation and city Peter the Great built. See it in a nutshell: **LAW, PAGE 3**



THE GAVEL

VOLUME 48, ISSUE 3 ■ DECEMBER 1999

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

'Just Fix It' remedy shows CSU won't let its mistake go

By Eileen Sutker
STAFF EDITOR

Cleveland State pushed the PeopleSoft debacle into a new phase last month. On Nov. 17 the *Plain Dealer* reported that CSU's administration began a "Just Fix It" campaign designed to correct and control the increasingly unmanageable software system. CSU finally informed the students of the program in a public meeting last week.

This latest campaign evokes the image of an administration bailing water to keep the CSU ship afloat. President Claire Van Ummersen appointed Joseph Nolan as special deputy to oversee this latest response to the software problems, the *Plain Dealer* reported.

"We are increasing our customer relations training," Nolan said.

See PEOPLESOFT, page 2



Dr. Sam Sheppard (inset) was convicted, then acquitted of the 1954 murder of his wife Marilyn. His son is hoping Ohio clears his name.

Stomping out the last few fires

GAVEL STAFF

When a "NOVA" television special about the Dr. Sam Sheppard case aired for the first time Oct. 19, Cleveland-Marshall students got to see how his son reacted to it.

Sam Reese Sheppard has made it his mission to exculpate his father, even 35 years

after the doctor was acquitted for his wife's murder. He and attorney Terry Gilbert are asking Ohio to declare Sheppard innocent, bringing the case beyond the criminal courtroom and back into the headlines.

Turn to page 6 for more on the celebrated case, from beginning to present.

Getting back at the beast

Forced to atone for its bar scores, C-M revolts like never before

GAVEL STAFF

For the third straight test, Cleveland-Marshall students finished seventh out of nine Ohio law schools in percentage of first-time takers who passed the bar exam.

With just 62 percent of C-M test takers passing July's exam, the administration is under pressure from some students and alumni who don't think the school does enough to prepare its students for the test.

In response, Associate Dean Jack Guttenberg and Dean Steven Steinglass have implemented new programs and modified existing

ones to better train students for the rigor of the exam.

On pages 4 and 5 you'll find:

■ Monica Clardy's interview of Guttenberg, the informal keeper of the bar exam records, on the school's attempt to pinpoint why students fail and to devise ways to lift the scores.

■ Steinglass' regular column on the new legal writing curriculum and students' responsibilities prior to taking the bar.

■ An explanation of the new legal writing exam format.

■ An analysis of how well minority students are performing on the bar exam compared with white students.

■ Students' and faculty members' vocal reactions to the latest low pass percentages.



Moot court crew on its way to New York City after regional tourney win

By Carrie Benjamin
CONTRIBUTING WRITER

After five rounds of what felt like grueling argument, Cleveland-Marshall emerged victorious in the regional round of the American College of Trial Lawyers National Moot Court Competition, held Nov. 18-20 at the University of Dayton Law School.

Team members Jennifer Mingus, Casey O'Brien and Alex Gertsburg narrowly defeated a contingent from Case Western Reserve in the final round of the competition, which included questioning by judges from the Fourth Circuit Court of Appeals, the Ohio Court of Appeals and a United States district court.

"The CWRU team was awesome," said Gertsburg, who early in the competition predicted that it would be C-M vs.

Prediction comes true when one team of moot courtiers from Cleveland-Marshall takes on, then defeats Case Western in final round of prestigious trial lawyers regional contest

Gard requests score sheets to verify other team's loss

CWRU in the final round.

The C-M team of Jason Bristol, Kevin Mays and Christine Roman defeated a team from Capital University, but lost a very close battle with the Thomas Cooley team (Lansing, Mich.) in the preliminary rounds.

Professor Gard, who advised the teams, requested the score sheets for further analysis. The decision was upheld.

The winning C-M team won the best brief award and Jenni-

fer Mingus was named best oral advocate. This team's record was 5-0 as they defeated teams from CWRU, Cooley, Michigan State, Northern Kentucky, and then CWRU again in the final round.

This regional victory means the top team will travel to New York City during the last weekend of January for the final round of the tournament. The top two teams from each of the 14 regions will compete for the top honors in the nation.

Regional round

National Moot Court Competition



This is the third straight year C-M advanced to the final round at the national competition.

Both C-M teams prepared for two months, using one month each to write the brief and practice oral arguments. This narrowly won competition brought C-M into the national spotlight again.

Members of the Moot Court team said the issues this year were extremely complex and challenging because, among other reasons, each team had to argue both sides of the issue in various rounds.

The first issue was whether *Miranda v. Arizona* was superceded by 18 U.S.C. § 3501 by replacing the *Miranda* warnings with a case-by-case analysis of the voluntariness of a confession. After the first oralist on a team spoke, the second oralist argued whether the admission into evidence of a dead accomplice's confession violated the defendant's Confrontation Clause rights.

Each argument was technical, historic and fact-specific. "I felt that each team in the competition was incredible, and it was nice to see all the hard work finally pay off," Gertsburg said. "Arguing that *Miranda* is the only proper test to determine whether a custodial confession is given voluntarily was easy because I really believed in the merits of our position."

In a judicial race between mostly C-M grads, Zone just eeks it out

By Heather A. Taylor

CONTRIBUTING WRITER

On Nov. 2, 1999, the general election in the City of Cleveland included a hotly contested four-way race for Cleveland Municipal Court Judge to replace the position of the retiring Judge G. Francis Sweeney.

One candidate was Lauren Moore, currently a staff attorney at the Legal Aid Society, and a 1987 graduate of Case Western Reserve School of Law.

The remaining three candidates were Cleveland-Marshall alumni. Anita Laster Mays, deputy director for the Cleveland Clerk of Court, Criminal Division, was a 1992 graduate.

Ann Wenneman, a 1981 graduate, is a magistrate for Cuyahoga County Probate Court. And Joseph J. Zone, class of 1980, is a named partner in a Lakewood law firm and a Cleveland councilman for Ward 19.

The election was close. When all the ballots were tallied, Zone won the race by fewer than 700 votes.

Zone said he is happy about his accomplishment because his hard work finally off. His campaign involved months of preparation for the election.

"A political campaign is a total commitment by anyone who wants to be successful," Zone said. "You have to shake every hand and meet every person possible, and try to convince them of your credentials."

Especially in a close race. "Every candidate in the race was an extremely talented individual," Zone said.

Zone said does not have any future political aspirations other than being a judge. "I went to law school because I wanted to become a judge," he said. "There is no higher calling than being on the bench."

Zone said being a Marshall grad is a great benefit to anyone who wants to be involved politically in Cleveland. "The networking opportunities and potential is incomparable to any other law school in the country," he said.

Reportedly, this was the lowest voter turn out in 21 years because of the miserably cold and wet weather.

When all the votes were tallied, Zone won the race with 12,905 votes, or 34.58 percent. Moore was a close second with 12,232 votes, or 32.78 percent. Wenneman and Laster Mays had 11.37 percent and 21.27 percent of the vote, respectively.

Religious hate still spans globe

Former UN counsel Forte says Christians take biggest brunt

By Linda Griffin

STAFF EDITOR

In an Oct. 28 presentation, sponsored by the International Law Students Association and the Christian Legal Society, Cleveland-Marshall professor David Forte discussed the persecution of religious groups throughout the world, with the most persecuted and widespread being Christians.

Forte, who has testified on human rights and religious persecution before Congress, said for the individual and for social and political reasons, religious freedom should be the first human right that is "championed by the governments."

He stressed that religious liberty is not only a necessity of human nature but also is a command of customary international law.

"You will notice that any state, whether it be the secular west or the atheist east, that wishes to retain power, if it cannot capture religion as an ally empowered of the state will seek to suppress it above all other rights," he said.

In the past, Forte served as chief counsel to the United States delegation to the United Nations.

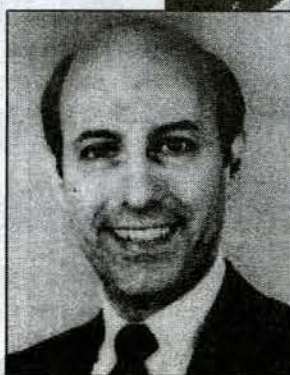
With two thirds of all Christians being in the third world, Forte said this group is disparaged both socially and religiously. There is direct government persecution against Christians in China, Vietnam, North Korea, Saudi Arabia, Sudan and Laos.

In addition, reports of government tolerated and encouraged private persecution surfaced in such countries as Pakistan,



INTERNET

Forte (left) spoke of religious persecutions such as children being chained in an Islamic school in Bangladesh for not memorizing the Koran (above).



Egypt, Iraq, India and Burma, Forte said. Approximately 330,000 Christians have been killed; three million have been displaced.

Forte pointed to studies which show that villages are starved until they convert to Islam. Men are killed and women and children are sold into slavery.

Sudan and China are of special concern to the United States, and changes are occurring to get the American government involved. Nina Shea, director of the Religious Freedom Project, Paul Marshall, noted author of "Their Blood Cries Out," and Jewish leader Michael Horowitz were instrumental in shedding light on the unpopular subject.

Abe Rosenthal, of the *New York Times*, not understanding why his newspaper was not getting involved, began printing articles to voice his views on the United States' silence.

Forte said Frank Wolf, a Congressman from Pennsylvania, subsequently introduced the International Religious Freedom Act (IRFA), which established a commission to monitor the status of religious persecution in foreign countries, who in turn recommended policy options to the Clinton administration.

The IRFA also provided for a special ambassador-at-large, appointed by the president, to be a principal adviser on religious freedom issues abroad.

The IRFA passed in the Senate in October 1998 by a vote of 98-0 and in the House by voice vote. President Clinton signed the measure on Oct. 27, 1998.

The act's overall purpose established a "framework for taking action against countries engaged in persecution" by way of sanctions, depending on the severity of the persecution.

Forte teaches constitutional law, international law, comparative law, Islamic law, jurisprudence and First Amendment rights.

PEOPLESOFT: Clinging to a sinking ship

Continued from page 1 —

From a distance, the behavior of CSU administrators toward PeopleSoft is a classic example of the theory of "escalation of commitment." In this leadership model, the fallible decision maker justifies actions by internally adopting a norm for consistency. This results in commitment to a course of action simply because consistency is viewed as a desired behavior.

Individuals engaging in this behavior are likely to use more information that exonerates an earlier decision-making error than information that implicates it, according to Barry Stow in a 1981 "Academy of Management Review" article.

CSU administrators made a decision and invested resources — and now they can't

let go. The PeopleSoft cost currently is \$11.6 million, but this figure could rise with a potential tidal wave of litigation ranging from disgruntled students who lost job opportunities from inaccurate or late transcripts, to CSU suing students over unpaid bills.

In a worst-case scenario, every school that purchased PeopleSoft software might sue the company into bankruptcy. Unfortunately none of these

actions can help the school avert the disasters that loom each semester.

CSU still won't abandon the problematic software because its commitment to consistency outweighs a rational, objective analysis of the PeopleSoft problems. A reasonable analysis could easily conclude that CSU should abandon the PeopleSoft flagship and start swimming on its own. How much taxpayer and

student money should be spent to keep the boat afloat?

The administration's single-minded approach toward problem solving evokes memories of famous (infamous?) past decisions. This is the kind of thinking that led the country into Vietnam and forced the political leaders of the time to sustain commitment to the fighting far beyond public tolerance.

This kind of decision making sunk the Titanic when an overzealous representative of the ocean liner's parent company apparently forced the captain to continue at full speed in uncertain waters.

And so, here we are, four semesters into PeopleSoft preparing, once again, to rearrange the deck chairs on the Titanic.



THE GAVEL TRAVELS

ON JUNE 26, 1999, I embarked on an extraordinary adventure along with 12 other Cleveland-Marshall students to St. Petersburg, Russia, as a participant in the annual C-M Russian Law Institute.

The focus was international law. Two courses were offered: international trade law, and International Monetary Fund and World Bank. The courses are taught in English by Americans. I learned a lot in the classes, but just as much learning occurred outside the classrooms.

I attended various civil and criminal trials which are often conducted simultaneously. Those awaiting criminal trials are brought into the courtroom in shackles and are required to sit in cages in the courtroom while the trial is conducted!

When I heard this I imagined all sorts of inhumane and barbaric conditions. But in actuality the cages are quite nice — freshly painted, with a handsome wooden bench and desk inside and plants surrounding one side of the cage as well as an open window outside the cage for fresh air.

A magnificent city

St. Petersburg, often called “a window to the West,” was built by Peter the Great and modeled after many of the European cities he visited. We toured the Hermitage, home to one of the most impressive collections

Each summer Cleveland-Marshall students have an opportunity to study international law in the ‘Window to the West,’ St. Petersburg. It is a city in political transition, an ancient vodka *grad* in a new Coca-Cola culture. For a better look at the city and the program, staff writer **Ann Vaughn** takes us east.

of impressionistic art and palaces such as Peter the Great’s Winter Palace, Peterhoff along the Bay of Finland, Catherine the Great’s summer palace and Usupov Palace, where Rasputin was murdered.

My experience abroad was further enhanced by cultural performances such as the ballet “Swan Lake” at the stately Marinsky Theatre.

During a weekend trip to Novgorod, home of my Russian colleagues, I visited a model prison and an archeological site. I was encouraged at the site to climb down into the excavation area and wander around the ruins of an 11th-century town hall. I was even invited to take home pottery and ruins collected from the area! Only in Russia could this happen.

White nights

Being in Russia during the summer months gave me the opportunity to experience “white nights,” an extraordinary phenomenon of nature where it actually stays light outside until about 2 a.m. and then gets a little dusky, but by 4 a.m. it is bright as day again. Consequently, I burned the candle at both ends, foregoing a lot of sleep in order to experience as much of St. Petersburg as I could. I estimate that my trip abroad was six weeks long rather than four because of these fantastic white nights.

Red Moscow

I traveled to Moscow for a few days after the session ended in order to visit the Kremlin, St. Basil’s Cathedral, Red Square and Lenin’s mausoleum.

Visiting the Kremlin was a throw-back of what it must have been like during the days of communism. Uniformed and armed guards patrolled the area and there were many areas where I was not allowed to walk or even sit!

The weather was great, the food divine and the alcohol cheap. Russian vodka is less expensive than water, but I wouldn’t recommend drinking Russian brands. I traveled by metro or hitched rides with locals to get where I wanted to go. I experienced very little anti-American sentiment and felt very welcomed by the Russian people.

Russia is such a foreign country — from the sound of the language to the mannerisms of the people to the Cyrillic alphabet. Being there gave me a greater appreciation for American values. Numerous conversations revealed that the transition from a communist society to a capitalist society has not been easy for many Russians. Because of this experience, I can say with conviction that traveling to Russia revealed how much I love the United States.



On location: **St. Petersburg, Russia**

All roads lead to good grades in bar analysis

"I'm worried. Really worried," said Brenda Kaminsky, who will be a graduate this coming May and a July 2000 bar examinee.

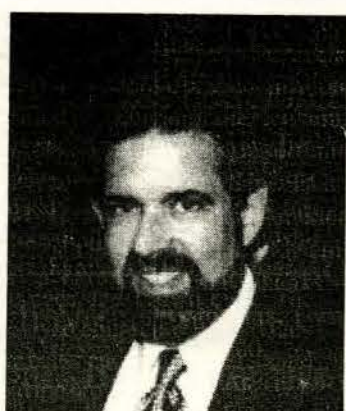
She is not alone in her concern. Many students, administrators and professors have voiced concern over Cleveland-Marshall's latest bar passage percentage.

Associate Dean and professor Jack A. Guttenberg probably knows more about this subject than anyone else at the university. He is in the process of collecting and collating data to explain the disparities among universities and offer insights on avoiding the pitfalls of having to retake the exam. The *Gavel's* staff writer **Monica Clardy** asked Guttenberg to shed light on the subject. Excerpts from their conversation:

MC: As the Ohio bar examination guru, what are your general thoughts on Ohio's bar examination?

JG: I don't know if I'm a guru, but I have done quite extensive research on the subject. Since the bar was changed in July 1997, I have determined that the top 50 percent of C-M graduates will pass the bar as first-time test takers most of the time. This is not to say that some in the remaining 50 percent have not or will not do the same. They just statistically have a harder time at it. There are always exceptions.

What I'm saying is that those who do well in law school have traditionally passed the bar on the



Jack Guttenberg

"Day students are no better than evening students, nor are whites better at this than blacks. Based on everything I've seen, what is known is that if you do well in law school regardless of certain characteristics, you have a greater chance of passing the bar. But there are exceptions."

first try.

MC: What changes went into effect in July 1997?

JG: With the July 1997 bar exam, students were required to have a higher combined score of 405 points. Those students who would have passed in prior bar exams, where only 375 points were needed, are now failing. Raising the bar score has definitely had an adverse effect upon our students' ability to pass on their first try.

MC: What were the objectives of the Ohio Supreme Court in making the test so difficult to pass?

JG: I can only theorize that the state Supreme Court did not want to be known as an "easy" state. For many years, Ohio was ranked as one of the 10 easiest states in which to pass the bar. Before July 1997, eight states were essentially easier to pass than Ohio's. With the recent scoring changes, there will be 36 states with easier bar exams. They may have also

wanted to limit the number of attorneys licensed to practice in the state.

MC: Are certain graduates just better at passing the bar than others? Day vs. evening students? Males vs. females? Whites vs. blacks?

JG: It really doesn't matter. Day students are no better than evening students, nor are whites better at this than blacks. Based on everything I've seen, what is known is that if you do well in law school regardless of certain characteristics, you have a greater chance of passing the bar.

But, again, there are exceptions. We do know that blacks generally graduate in the bottom 50 percent and, therefore, statistically have a greater chance of repeating the exam. There just isn't enough data to determine whether it's a race issue or a GPA issue when such criteria is factored in. However, when I see a student with a 2.0 GPA passing

the exam on the first try, I know there is hope for everyone. That 2.0 student just found ways to overcome whatever obstacles were in the way while in law school.

MC: What are other universities doing differently that would explain the disparity among university passage rates?

JG: You would have to compare a lot of factors. But, as I've said before, students with higher GPAs statistically tend to do better. The real question you want to ask is why are certain universities, whose students are comparable to ours, doing better than C-M. And the answer, according to the latest published ABA information, is that those universities have a higher attrition rate for first-year law students and their students may have slightly higher undergraduate GPAs and LSATs.

MC: So what is C-M doing to combat the problem?

JG: The administration and faculty identified this as a major

problem a few years ago. We have been working and will continue to work with persons familiar with what it takes to be successful at this. We have offered workshops, brought in bar examiners and others to speak with students on preparing for the bar exam, and instructed professors to talk about the bar exam more in class.

Just recently, students were invited to attend a class lecture by Marcia Mengel, clerk for Ohio Supreme Court in charge of administering the exam, who explained what is expected during the bar examination. Very few students showed up. We will continue to make this information available to students, but the turnout hasn't been very encouraging.

MC: What can students do to increase their chances of passing the bar the first time around?

JG: The first thing they can do is remove any obstacles that would interfere with their devoting 100 percent of their time to studying and getting ready for the bar. Students should do nothing but eat, live and breathe the bar materials at least two weeks before the exam, if not more.

Second, they should devote as much time as possible to preparing. This means, eight to 12 hours per day, six days per week. Work with the practice materials as much as possible.

Finally, students should attend as many preparatory courses and workshops as they can. BarBri, PMBR and a few others should be on everyone's list to attend.

No demographic sketch of first-time failers

Monica Clardy
STAFF WRITER

In 1989 the newly formed Minority Affairs Committee of the Law School Admission Council agreed to fund a study to prove, or rather disprove, concern over the national rates at which minority law students pass state bar examinations. The LSAC National Longitudinal Bar Passage Study tracked fall 1999 entering students of ABA-approved law school for a six-year period. The findings were published in a 1998 report.

The report confirmed that during the six-year study, minorities ultimately passed state bar exams, although not necessarily as first-time test takers. Further findings included:

- Eventual bar passage rate for all study participants was 94.8 percent.
- Eventual passage rate for all study participants of color was 94.7 percent.
- Minority examinees who eventually passed, between 94 and 97 percent, passed after one or two attempts and 99 percent passed by the third attempt.
- Eventual pass rates in-

creased substantially over first-time rates for all examinees.

When background variables typically identified as potential contributors to low academic achievement were examined, they showed no relationship to bar passage or failure. These variables included academic expectations for

one's self, language spoken in home, need to work for pay during college and financial responsibility for others during law school.

Some differences were found with respect to age for all ethnic groups and with respect to socioeconomic status for some but not all groups. A demographic profile that could distinguish first-time passing examinees from eventual-passing or never-passing examinees did not emerge from these data.

Although students of color entered law school with academic credentials that were significantly lower than those of white students, as measured by undergraduate GPA and LSAT scores, their eventual bar passage rates justified admission practices that look beyond such measures.

The study revealed no difference in bar passage rates between

men and women, even within each ethnic group. Both law school GPA and LSAT scores were the strongest predictors of bar examination passage for all groups studied. When the effects

of GPA and LSAT were removed, however, the probability of passing varied significantly by groups of law schools and geographic region where the bar exam was taken.

Minority bar results

Pass rates in a recent study of bar takers nationwide.

Ethnic group	Total no. (% of all takers studied)	No. passed (%)
American Indian	107 (0.46)	88 (82%)
Asian American	961 (4.2)	883 (92)
Black	1368 (5.9)	1062 (78)
Mexican American	398 (1.7)	352 (88)
Puerto Rican	128 (0.55)	102 (80)
Hispanic	520 (2.3)	463 (89)
White	19,285 (83)	18,644 (97)
Other	319 (1.4)	292 (92)
Total	23,086 (100)	21,886 (95)

LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY, 1998

“
OVERHEARD

"Cleveland-Marshall and all Ohio schools are suffering because of the artificial scoring system the state Supreme Court has imposed. It is unfortunate because it appears the students are 'dumber' now than three to four years ago. And that's just not true, but maybe this will encourage students to take their studies more seriously."

— **Frederic White**, Associate Dean

"I didn't pass the bar. And when I look back on it, I really didn't prepare for it. If I had to do it all over again, I would get in a study group, work with the practice materials, and put in the time by working on it everyday.

You really have to desire it. You really have to study the law. I know this in hindsight. I should have gone somewhere to study for that one and a half to two months before the exam, with someone to bounce ideas off of. Somebody to work with and do what was needed."

— **Kathleen Parks '99**

Hard work in school pays off at bar exam time

By Steven H. Steinglass

The results of the July 1999 Ohio bar exam are in, law school exams are around the corner and another graduating class is about to begin the final sprint for the bar exam. This is a good time to comment on the bar exam and its relationship to your legal education.



The Dean's Column

July results

On the July 1999 Ohio bar exam, Cleveland-Marshall's first-time test takers were fifth of the nine Ohio law schools. Since 1997 the school's ranking for first-time takers is: February and July '97 — eighth; February '98 — ninth; July '98, February '99 and July '99 — fifth.

Are we satisfied with this performance? The answer is a resounding no! First-time test takers from C-M passed at only a 68-percent rate as compared to the statewide, first-time test-taker rate of 75 percent. So even if the trend is in the right direction and our graduates continue to improve their performance relative to students from other Ohio law schools, we are not where we want to be or where we should be.

To place the current Ohio bar exam in context, go back to 1996, when the Ohio Supreme Court increased the passing score in Ohio from a score of 375 to the current score of 405. What this has meant is that the Ohio first-time pass rate has plummeted from 90 percent for the two-year period before the increase to 76 percent on the five tests given since the increase; Ohio's has become one of the harder tests in the country to pass.

The strategic plan

In 1998, the law school adopted a strategic plan that makes improvement in the bar passage rate one of the law school's highest priorities, and the steps that the law school has taken since the adoption of the Plan make clear that this is not just rhetoric.

Our initial approach has been

Our bar exam study makes clear the strongest correlation to bar exam success: law school performance. On the July 1999 exam, 100 percent of students who graduated in the top quarter of the class passed on their first try; 86.8 percent of students in the second quarter of the class passed the exam on their first try.

to undertake an in-depth study of the Ohio bar exam. This study will be completed shortly (see Dean Guttenberg's interview, left), but its preliminary findings have already provided guidance for the steps the law school has taken.

The preliminary information from the bar exam study makes clear that the strongest correlation to bar exam success is law school academic performance. On the recent exam, 100 percent of students who graduated in the top quarter of the class passed the July bar exam on their first try and 86.8 percent of students who graduated in the second quarter of the class passed on their first try. On the other hand, only 31.6 percent of students who graduated in the bottom quarter of the class passed the exam on their first try. These statistics, which are consistent with prior years, support steps we are taking to strengthen the academic program while expanding the available academic support.

■ **Legal writing.** The most significant

change in the law school curriculum has been the planned expansion of the legal writing and research program into a three-semester program. This expansion will not affect current law students, but it says something important about the direction in which the law school is moving.

■ **Bar essay workshops.** For current students, we have determined that the most important step the law school can take to improve bar performance also involves writing — the special type of writing required for the essay portion of the exam. We created the series of bar exam essay workshops we offered in June and July. More than 100 students attended the workshops and we are planning to continue to offer them before both the February and July 2000 bar exams.

Your responsibility

The faculty can only do so much. Faculty can provide more guidance about the coverage of the Ohio bar exam; they can give more

bar exam-type multiple choice and short essay questions; they can provide more feedback in the classroom. But in the final analysis, responsibility for passing the bar exam is yours and, given the relationship between academic performance and bar exam results, the best advice I can give you is to take law school and the exam seriously.

I suspect a number of students will read the above paragraph, roll their eyes and wonder how the dean can be so out of touch. Most students who take law school very seriously will wonder why the dean would suggest they do not.

If I am preaching to the choir, fine! But like the old saw about how one gets to Carnegie Hall — practice, practice, practice — law students, regardless of where they rank in their class, must make a special effort to get all that they can out of law school. Law school is difficult because the law is difficult, but our students have the intellectual ability to excel in law school, to pass the bar and to suc-

ceed in the practice of law. What our students often lack is time.

What this means is that law students should limit their work and other commitments, *especially in the two-month period between graduation and the bar exam.*

We understand it is not always easy to find the amount of time necessary to meet all your obligations. We also know that our part-time law students balance the demands of full-time employment with the demands of law school. Nonetheless, you were making an important investment in your future when you began here, and part of that required you to organize your life so that you could give law school (and then bar exam preparation) your best shot.

Simple pragmatism

For the bar exam, students must plan ahead. This requires that they have adequate time to prepare for the exam. We hear too many cases of students not taking enough time off work during the bar preparation period.

Students should also take advantage of the bar exam essay workshops and other workshops that the law school has been sponsoring. And despite the expense of the commercial bar review courses, it is difficult to see how anyone preparing for the bar exam could fail to take one.

Students must also learn more about their own learning styles and weaknesses, then take advantage of the academic support programs at C-M. Weaknesses must be addressed and addressed early.

Our students clearly have the ability to pass the Ohio bar exam at a higher rate. The law school is doing more to improve the academic program, academic support, and provide special bar preparation assistance; law students must also do more and must devote greater time to their studies, to the special bar assistance programs offered at the law school, and to bar preparation. C-M graduates can and will do better on the bar examination.

Steinglass is dean of C-M College of Law.

How we measure up

Percentage of all test takers who passed the Ohio bar for the exam indicated.

Law school	July '99	Feb. '99	July '98	Feb. '98	July '97	Feb. '97
Cincinnati	91	68	86	67	94	79
Akron	83	67	76	82	74	90
Ohio State	82	65	81	58	84	88
Case Western Reserve	80	69	74	64	79	81
Dayton	64	50	66	60	73	89
Cleveland-Marshall	62	57	64	46	61	70
Capital	59	54	62	71	73	78
Toledo	55	65	60	68	65	84
Ohio Northern	42	48	47	45	52	47
State pass rate	70.1	62.9	70.6	63.2	75.6	81.0

SUPREME COURT OF OHIO

July's new exam format to include memos, sources

By Monica Clardy

STAFF WRITER

Just when you thought passing the Ohio bar exam was tough enough, the Multistate Performance Test will be added to it for the first time in July 2000.

The MPT, a national test administered by the National Conference of Bar Examiners, requires prospective attorneys to prove their ability to write like lawyers.

The Ohio exam will consist of two 90-minute questions where examinees are to read, analyze and write legal documents. Each test taker will receive a case

file and library, possibly containing a mock memorandum from a supervising attorney describing the written task to be completed. The questions will also contain source documents, which may not be relevant to your assigned task.

Test takers will be responsible for determining and applying appropriate authorities and completing the written assignment. The MPT will be administered on the second half of the first day of test taking (Tuesday afternoon).

The MPT questions will be factored into the written portion

of the exam, along with 12 essay questions. The available points range from 0-7 for each question. The essay questions carry a weighted multiple of 2, while the MPT is given a multiple of only 1.5. Therefore, greater emphasis will be placed on writing "perfect" essays in order to pass. The entire written portion is two thirds your score, combined with a scaled multistate score for your final combined score.

See the chart at right for a more detailed comparison of the new July 2000 bar requirements and those for February 2000.

February 2000	July 2000
405 points needed to pass	405 points needed to pass
Includes MPRE, MBE and written essay	Includes MPRE, MBE MPT and written essay
Essay: 18 questions MBE: 200 questions	Essay: 12 questions MBE: 200 questions
No MPT. No domestic relations or trusts	MPT: Two 90-minute questions; may include domestic relations and trusts

JACK GUTTENBERG



A new generation meets Dr. Sam

By Roger Bundy Jr.
STAFF WRITER

On Oct. 19, Cleveland-Marshall students and faculty, along with journalism students from Kent State, joined Sam Reese Sheppard and his attorney, Terry Gilbert, for the premier of a documentary on the public television show "NOVA" that chronicled Sheppard's quest to have his father, Dr. Sam Sheppard, posthumously declared innocent by the state of Ohio.

This was the first time Sheppard saw the film, which detailed the locally well-known murder-drama that occurred in Bay Village in 1954 when Sheppard's mother, Marilyn, was found brutally murdered in bed in her home. Dr. Sheppard claimed he was injured by an intruder who then murdered his wife.

Under tremendous public pressure arising from national publicity and daily local newspaper headlines calling for his arrest, the county prosecutor arrested, tried and convicted Dr. Sheppard in a highly publicized trial whose national impact was comparable to the recent O.J. Simpson trial.

In 1954 Sam Sheppard was wrongly imprisoned for murdering his wife. Years later, C-M students hear his son's quest to have Ohio declare the doctor's innocence at last



Sam Reese Sheppard



Terry Gilbert

After serving nearly 10 years of his life sentence, the U.S. Supreme Court overturned Dr. Sheppard's conviction and remanded for a new trial. At the second trial, Dr. Sheppard was acquitted. He died in 1970.

In July 1996, his son filed an action in Cuyahoga Com-

mon Pleas Court under an Ohio statute that allows for a person to petition the state to declare innocent someone who was wrongly convicted of a crime.

The current burden is on Sheppard and Gilbert to prove Dr. Sheppard's innocence, a much tougher burden than cast-



Marilyn and Dr. Sam Sheppard before her murder in 1954.

CLEVELAND PRESS (ABOVE); NO CREDIT (LEFT)

ing reasonable doubt on his guilt, which was accomplished at the acquittal.

The NOVA film highlighted the difficult and challenging process of proving someone innocent with 45-year-old evidence. The process included reconstructing the Sheppard home (now demolished) as it appeared in 1954 in a Cleveland warehouse. Gilbert used the

world's expert on blood-spatter analysis and experts in DNA analysis, including Barry Scheck, who gained fame as the DNA expert on the Simpson defense team.

More information about the case is available at WWW.LAW.CSU.OHIO.EDU/LAWLIBRARY/SHEPPARD.CASE.HTML, which provides links to court documents and other sites.

Night students may bring more to law school, but day students hit fewer bumps in the road

By Kelly R. Johnson
STAFF WRITER

The differences between night and day law students reach beyond one extra year of school. Those differences include age, experience and relationships, although everyone shares a common goal.

You do not need statistics to realize that the median age of the night student is an estimated eight to 12 years higher than the day students. This demonstrates either that day students developed a desire to practice law at an earlier age, or that night students have other obligations such as working to feed a family. Perhaps age is irrelevant at the graduate level, but it certainly affects the level of real-life experience a student brings to the classroom.

Roger Bundy, a 2L evening student, included a day class in his schedule this semester and observed the relative lack of diversity.

"On the whole, evening students have more real-life experiences to bring to the discussion of legal principles than day students. This does not necessarily

mean that their discussions are more beneficial to the study of law," Bundy said.

A second distinction is the relationships among students and professors. David Sipusic, now a 2L day student, switched from the evening program primarily due to the strain of staying motivated for four years.

He noticed how few day students experienced a break in the educational cycle. As a result, he says, their perspectives seemed narrower.

Day students seem impervious to differences among teachers and focused on extracting from the lecture only what's needed for the exam. Comparatively, many night students take time to speak with professors

outside of class to learn from their collective prudence, and deliberately select professors based on known professorial proclivities.

A third distinction is varying commitments outside class. Night students have learned time-management skills, but I believe day students exhibit more dedication and endurance; they experience fewer interruptions.

Regardless of day or night status, law school is a challenge. Whether that challenge lies in balancing work, family and studying, or instead, in our ability to keep up with a heavier classload, we focus on the same goal — to pass the bar exam and contribute successfully to the legal profession.

David Sipusic, now a 2L day student, switched from the evening program primarily due to the strain of staying motivated for four years. He noticed how few day students experienced a break in the educational cycle. As a result, he says, their perspectives seemed narrower.

Work-study: Maybe not the best scenario for first-years

By Karin Mika

■ How important is it that full-time first year law students not work while in school?

I come from a background in which everyone got jobs on the date of their 16th birthdays and have worked ever since. Consequently, I'm not sure I should be the administrative voice for advocating students not work during law school. I suppose the answer depends on who you are and what you do for "work."

A large number of evening students clearly have the mettle to work full-time, take more than a part-time classload, maintain a family on the side and do quite well in all categories. Of course, not everyone is capable of that. Law school for most people is a brand new type of educational experience that seems to require a significant acclimatization period. The more time a student has for that without being impeded by other responsibilities, the better (and faster) it will work out.

For all three years of law

school I worked an evening shift sorting packages at United Parcel Service. From my standpoint, the job paid for law school and was mindless enough to allow me to concentrate on studying even while at work. Not all jobs afford a student that luxury, although I've seen a whole lot empty parking attendant booths at CSU during odd hours!

My opinion changes somewhat with respect to the second year of law school, and then again for when a student is preparing for the bar exam. I think a good legal clerking position can actually enhance a student's understanding of the law. On the other hand, a poor or overburdening clerking position can detract from a student's understanding.

The key in studying for the bar exam is immersion in the material for an extended length of time. Here the "mindless" job might not be an impediment, but a job that requires deep thought will be. Why learn what you should have done after failing the bar once? Do it right the first time.

Mika is the assistant director of legal writing at C-M.

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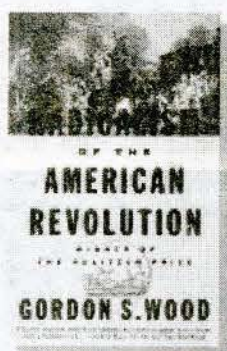
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Wood's soft underbelly shows in rap session here

By Gary Norman
STAFF WRITER

Professor Gordon S. Wood's Northeast Bostonian accent carried a warm aura as he freely answered questions during his visit on Oct. 21 in the visiting scholar room of Cleveland-Marshall's law library.

He espoused the belief that the American people are relatively conservative and don't want federal judges tinkering with the U.S. Constitution.

On the other hand, Wood agreed there's a certain modicum of truth to arguments made by both sides of the liberal and conservative interpretation of the constitution debate. He indicated that the positive changes of technology in this century greatly impact literary and legal research, but that technology's negative effects include an increasing dependence on color images to communicate.

This decline in verbal based skills may contribute to the fall of a democracy that is dependent on a knowledgeable and literate voting population.

I felt privileged to interview this reknowned historian as he briefly surveyed the technological changes made during his lifetime (starting with his research on newly invented microfilm cards during the 1950s), because his story mirrored the rapid increase of materials available for the blind. Together we rejoiced at the multitude of print media now accessible through tapes, computer disks, CD-ROM, scanners and e-mail.

But I remain fearful for the future of the great American experiment if the blight of illiteracy continues to attack the harvest of thinking people who can contribute to the American system of governance.

That the publication of his book, "The Radicalism of the American Revolution," had a significant impact on the American cognoscenti can't be doubted; the trickle-down to the television generation remains the real issue.

Norman is a 3L.

By Kevin Butler
STAFF EDITOR

MORE THAN once a week a few gleeful strangers point out my likeness to John Belushi. I can't blame them — often I leave the house unshaven, and by the time I leave work my hair's a mess. Plus, to borrow a phrase, I have what doctors call a little bit of a weight problem.

This didn't happen overnight, and not entirely by happenstance. Early in college my folks witnessed my weight gain, but they also noticed how I began to resemble Belushi. My dad, who delighted at the comic's Bluto character in "Animal House" years earlier, got a kick out of me when I'd raise my eyebrow at the dinner table (then dump mustard onto my chest). I took this as encouragement and these days can crush an empty beer can on my head on demand.

That's how Chris Farley, a '90s addition to "Saturday Night Live," got his start. His dad loved young Farley's Belushi impersonations so Chris made the creator of the Samurai pool hustler his idol. Just a few years later, Farley was a 300-pound blur of "pure entertainment" — what some critics blasted as unimaginative slapstick; what the rest of us loved to watch, laughing out loud.

I'm lately reminded of their deaths because occasionally I indulge in the same excessiveness that brought them down. That's not to say I exhibit the same substance abuse of Farley and Belushi, who each died at age 33, but I do eat too much, exercise too infrequently and sleep too little.

Farley's death in 1997 eerily resembled Belushi's 15 years earlier. Both were overweight and died after short adulthoods

It's easy to condemn celebrities in the 'Stupid Club' like comics John Belushi and Chris Farley. We should care less about their bad habits than the laughs we lost



Both Belushi and Farley played hard and paid for it.

that were highlighted by heavy drug abuse and hard-driven addictions.

Since their deaths, most of us remember them as the tightly wound Matt Foley, motivational speaker, or the elusive Joliet Jake Blues. The misguided Tommy Callahan or the misfit John Blutarsky. "I'm a king bee, buzzing 'round your hive," we recall one of Belushi's creations saying.

In death, their characters have outlasted their private personas.

But they've also been disparaged for the way they lived. Read any Farley obituary and you're

virtually guaranteed to find a quote from some friend who tried to talk sense into the big man before he fell. Dan Aykroyd tried keeping Belushi away from drugs but couldn't; he later gave the same pep talk to Farley, to no avail.

Both comics have been inducted into what's been called the "Stupid Club," the fraternity of celebrities who've lost their lives to addictions and suicide. Its roster includes names like Morrison, Joplin, Hendrix and Cobain.

That's where I disagree. These people lived and died by

their obsession with excess. Farley was a sensation among teenaged boys in America *because* of his troubled inner soul, not despite it. It is no new discovery: insecurity often brings the self-mockery that makes others laugh.

"It might be said with some safety that only those people kill themselves who in some sense are trying to die," wrote addiction expert Stanton Peele about Belushi's death. But those people are no less funny with that crutch.

The '90s are, I admit, a decade for postmodernists and apologists. George Will and all the curmudgeons in my family would ridicule me for not seeing simple right from wrong here. I understand that.

But I'm not advocating drug use, obesity or other forms of self-loathing, even among those characters like Farley and Belushi who seem to thrive onstage as a result. I'm just unwilling to write off their lives and deaths as stupid.

After Farley died, *Time* columnist Frank Pellegrini wrote, "Chris Farley is 300 whirling, crashing, sweaty pounds of pure comedy. He's not witty, or wry, or amusing. He's *funny*. Loosen up."

You won't hear such present-tense memorials when Chevy Chase dies at 80. Or when Aykroyd dies after making yet another unfunny movie.

The Stupid Club's members are burned on our brains as successes at their peaks, not failures. No amount of posthumous preaching will change that.

Butler is a part-time 3L and a full-time XXL.

Focus on the blessings, not the curses

By Gary Norman
STAFF WRITER

Too often people grouse about the things that "go wrong" in life, instead of being thankful for the overflowing cornucopia of good things in their lives. The next time you feel the inclination to complain about the stresses in life, try to focus on the good things, like your family and friends.

Remember that daily concerns are fleeting, but that the ephemeral, *good things* in our lives last in our memories. Be thankful for the radiant beams of sunlight that bless this planet with life. Be thankful for the ability to think, speak and write.

Be thankful that you have chosen to enter a field of human endeavor dedicated to serving the needs of others. It is my hope that the servants of

the world who are dedicated to positive charge are blessed with commitment for their convictions. Let us be thankful for leaders who remember that they are humble servants of the people.

As we enter the new millenium, be thankful for the myriad people who cross your path each day. Most importantly, be thankful for another day of life and living. Be thankful you can treasure the gift of life each day.

Norman is presumably thankful to be a 3L.

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