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The Gavel

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

Volume 21 • No. 2 • Oct. 13, 1972

*For the intimate expressions
of young men...
are usually plagiaristic
and marred by
obvious suppressions.*

-F. Scott Fitzgerald

EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT LAW SCHOOL BUT WERE AFRAID. . .

by Barbara Stern

This year a novel approach to the orientation program for the law school, held Friday evening, September 22, was taken. Instead of the numerous officials one usually encounters at such an event, only two speakers addressed the incoming freshmen. Bill Hunter, as chairman of the program, and Dean Craig W. Christensen spoke.

Dean Christensen discussed the modifications our law school has undergone and what other changes will soon be forthcoming. He especially emphasized the overhaul of curriculum and requirements we are seeking this year, pointing out that such flexibility was made possible by the hiring of professors with a wide variety of backgrounds and experiences. Commitments to the success of both the night school and the clinical program were made on the part of Dean Christensen. In closing, he stressed the importance of student involvement in shaping the future of the law school, thereby inviting participation in this area from the freshmen.

The students then dispersed into previously designated discussion groups of 25 to 30 people, each led by upperclassmen from day and night sections alike. These sessions lasted from one to two hours. Judging from the comments at the reception following, these groups proved to be quite helpful and informative to the 300 students who participated in them.

To make the new students aware of the issues they will be facing, an orientation booklet was prepared. This pamphlet was most inclusive, containing articles on such topics as how to survive the first day of classes, first year course descriptions, biographies of new faculty members, minority groups and the law school, the tenure system, and course evaluations.

Suggestions concerning the orientation program would be most welcomed at the Student Bar Association Office, UT930.

The Dean Invites

Craig Christensen, Dean of the College of Law, together with Associate Dean Sierk and Assistant Dean Tabac, has taken the initiative of calling a faculty-administration-student meeting. The purpose of this meeting is to provide an opportunity for members of all three groups to talk informally together in an active rather than re-active way.

The meeting is scheduled for October 19, 1972, from 4:00 p.m. to 6:00 p.m. at Fat Glenn's. Beer will be furnished compliments of the administration. All students and faculty members are invited to attend.

It is not unlikely that this could be a chance to begin to bridge that communication gap.

SBA ELECTIONS

by Carl Noll

Election of all SBA Senators will take place Monday, October 23rd through Wednesday, October 25th, 1972. The place and time of polling will be posted next week. Each student who desires to be a candidate for a Senatorial position will be required to complete a short form declaring his-her candidacy and will be bound by all of the campaign rules established by the SBA Election Committee. These forms and rules will be available in the law library and in the main office on the 12th floor of University Tower (U.T. 1201). All candidacy forms must be completed and placed in the SBA box in room 1201 U.T. by Wednesday evening, October 18, 1972. Every law student who desires to take an active part in helping to shape the policies of this law school is encouraged to run for office.

INTERNSHIP CONFERENCE

by W. Curphey III

Educators and administrators met from all over the United States and parts of Canada to attend the Rhode Island Conference on Students in Internship Programs. The conference emphasized the direction (hopefully) higher education will begin to take; that is, providing a student with a meaningful job experience related to his particular field of study. Current student work programs fall short of meeting this goal. The current approach to providing work experience for students is done in four ways:

1. The Federal College Work-Study Program—does not provide WORK-STUDY, but rather colleges and universities use eligible students to staff the college by placing students in secretarial and maintenance jobs (the current practice at C.S.U.) instead of a job related to their field of study. Urban Corps programs in most cities have broken through this barrier to a small degree and actually provided work-study jobs. C.S.U. College of Law provides actual work-study jobs also.

2. Co-op programs provide no more than money to get back to school.

3. Volunteer programs are ineffective in that it takes 25 volunteers to do 1 full time job; plus volunteer programs are run by professionals,

sociologists, psychologists, etc., better those being "volunteered upon" have a voice in the program.

4. Nader Raider type organizations help students develop analytical skills, but such programs fail at times for lack of organization and direction.

Some states (North Carolina, Rhode Island, Massachusetts, Maryland, and Delaware, to name a few) have state-supported internship programs whereby during the summer and part time during the year, students work in the local and state governments gaining meaningful work-related to their field of study. English and journalism students work on the hundreds of pamphlets governments publish. Economic and accounting students work in the budget and finance offices, law students in the legislature and so on.

Ohio needs such a program. The state and local governments could provide meaningful work experience for students—the funding is there, and certainly the need exists. The current rate of pay is \$2.25 to \$3.00 per hour for students; cheap pay for professional help. Funding could be obtained through the unexpended funds left over at the end of each fiscal year in spite of government's denial.

To provide such a program, off-campus learning centers should be established to know of all state and local learning opportunities for students. It can be done. It's the direction of future higher education.

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GRADING FIASCO: A PLEA OR HOW NOT TO WIN FRIENDS AND INFLUENCE PEOPLE

by Stephen J. Werber
Assistant Professor of Law

When I joined the faculty of Cleveland State University, Cleveland-Marshall College of Law in September 1970, the question of fairness in grading was beyond my field of vision—only the merest hint of frustration and inequality seemed to be present. That euphoria came to a logical and emotional end when final grades were posted at the end of the second quarter and at the end of the academic year. One evening section was, in its opinion, totally "shafted." That section received Torts grades so much lower than those of its corresponding section as to compel some strong critical analysis. The professor involved, Harvey Leiser, had entered his grades in utmost good faith and honesty; yet his standards were clearly different from those of Professor Sindell. Happily, for future students, both of these fine professors have analysed their grading practices, and changes were evident in the following academic year. Professor Leiser was absolutely correct in taking the position that so long as his grades were honest and there was no uniform standard, they would remain. Unhappily, the faculty as a whole did not learn from the experience involved. After all, none of the venom was directed at them. At the end of the academic year, I was thrown into the picture as I had the same section as Prof. Leiser for my course in Contracts. Comparisons were inevitable. My grades were largely in accord with Professor Leiser's—in less than 12 cases was there more than a one-half grade differential, and in 5 of those, I was lower than he was. However, because some of the weaker students had quit, my grades appeared slightly higher than his overall. The wrath increased, the remedy remained non-existent.

During the past academic year it happened all over again. This time Professor Sonenfield, a man whose honesty, integrity and ability I admire greatly, was the victim as one of his sections had the dubious distinction of receiving some 45 percent of their grades in the D and F range, while his other section received a "normal" grade distribution though the sections were tested and graded together. In addition, the difference in grades of B or better found in Professor Cohen's class (Torts) as compared to Professor Oleck's class (Torts) needs no further comment. Yet both acted properly. To worsen matters, it is common knowledge that at least three full time and several part time faculty know basically of only two letter grades—B and A which to me equally equals BAD. But these people receive no student complaints (instead they get extremely large sections) because the individual students are benefited gradewise. The students seem to ignore the fact that their colleagues are injured by the inflated averages obtained by students who specialize in professor-grade shopping—after all, anyone can do it. Other examples could be cited AD NAUSEAM.

Finally, last year, the bell rang and the faculty recognized that there was a small problem. The administration, faculty committees and

the faculty as a whole studied the problem and sought a solution to the extensive travesty and injustice of arbitrary grading. Two solutions were presented to the faculty for action and both were soundly defeated. The defeats make me wonder if we really do want a solution and this "we" includes the students, because it was they who were largely responsible for defeating one of the solutions. The first was a partial solution aimed at the elimination of disparities between sections of a single subject (a problem particularly irksome in differences between day and evening grading practices, but no limited thereto). This solution called for the institution of uniform examinations and team grading. The second was a proposal by Professor Sonenfield (yes people, Professor Sonenfield) and myself calling for the institution of flexible grading guidelines. The first solution was defeated by a combination of academic freedom and practical difficulties; the second by a combination of academic freedom and vociferous—though misguided—student dissent. Let us look at the foundations of protest:

Academic Freedom: Certainly this is a concept deserving of praise and steadfast protection. Through Academic Freedom a professor has the right to select his materials and teaching method, to express his own educational and even political philosophy, and to relate to his fellow professors and students as he sees fit. However, the question remains as to whether grading guidelines are within or without the penumbra of academic freedom. In my opinion this aspect of a professor's function is within the general principle, yet by so narrow a margin that rational limitations are proper where there is proven need. Even the First Amendment is not absolute. The University of Michigan, School of Law, found such a need and instituted grading guidelines with considerable success. Though their norms may well be different from ours, the concept is the same.

The rights of academic freedom naturally create concomitant duties, and when these duties are ignored, unacceptable abuse comes into play. This abuse is, I am convinced, not with malice but certainly with too little or improper regard for the results. It is evident that such unintentional abuse is present in a very large degree. We are all a part of it, and we must collectively govern ourselves into the necessary corrections. The freedom to grade carries with it the duty to grade fairly. To grade fairly means that grades must be relative and that grades should have a single meaning to all professors and all students. The Harvard "A" must be abolished or at least applied uniformly.

Use of Academic Freedom to prevent grading guidelines is a cop-out for all of us who are unwilling to take a hard, critical look at ourselves. Academic Freedom is not a valid objection to grading guidelines so

Con't. p. 3, cols. 1,2.

SBA PRESIDENT ON TENURE

It is argued that the protection of academic freedom, in and of itself, justifies the tenure system and is in fact the very reason for the existence of such a system. It is argued that it is a means of safeguarding a spectrum of teaching techniques and of giving security to the profession, thereby making it a more attractive profession. A further defense of the tenure system is that it is a guarantee to society that its more articulate members will be free to criticize its institutions without fear of losing their jobs. These arguments, however, leave many questions unanswered. Although the tenure system may protect academic freedom, is it the best method? Is it the only method? Are the fears which prompted the formulation of this system thirty years ago valid today? Does the teaching profession deserve a preferred treatment over other professions? Are the opinions of the intelligensia to be more carefully preserved and protected than those of other less articulate professionals? These questions reveal some of the weaknesses in the arguments for maintaining a tenure system, but there are many, many more.

Termination of employment under the tenure system is possible only for adequate cause. For all intents and purposes that adequate cause must be incompetence or insanity.

Before dismissal, a teacher must be afforded a hearing and (before such hearing takes place) be informed in writing of the charges against him. In proceedings against tenured faculty members, the burden of proof lies with the University to show that the teacher is being discharged because of incompetence whereas in proceedings against non-tenured employees the latter must prove that he is being discharged for reasons other than those based on his teaching competence. So the significant difference between tenured and non-tenured professors revolves around who has the burden of proof in dismissal proceedings. Non-tenured teachers are afforded all the due process safeguards against arbitrary or political discharges. The tenured members are afforded these protections plus much more, for the burden is upon the University to prove incompetence and with this comes a host of other questions which must be resolved before dismissal. What is incompetence and what kind of conduct is evidence of incompetence are but two of these questions.

The tenure system was designed to



by Steve Walker

convert the dismissal process into a judicial process so that dismissals on ideological or political grounds could be prevented, but there is already a document which affords such protection. This document has served sufficiently well in protecting all other members of society from arbitrary or political reprisals. That the Constitution affords these protections should be especially obvious to those in the legal profession.

Up to this point, tenure has been examined in terms of its theoretical protections and safeguards, but the real arguments should center around its actual performance. Under this system the mentally weak are protected. The incompetent are shielded. Those who no longer have all their faculties are still teaching. This occurs because mistakes are made in granting tenure, as is inevitable, and because the once sharp become dulled by time and age. No system can be devised to eliminate these failures, but can the tenure system justify its existence while these inherent features exist? Should education be stymied by the weak for the protection of the strong? Finally, there is one other major failing of the system and that is the process by which tenure is granted. No one has to look beyond our own school to see that this system, designed to protect teachers against infringements on their political and ideological viewpoints, is used as a political football between warring factions of a divided faculty.

Because there are constitutional safeguards available to teachers as there are to others, and because the tenure system in operation deviates too far from its intended path, and because the student's education cannot be allowed to be sacrificed at the cost of academic freedom, this system must be abandoned.



**The
Gavel**

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GRADING (cont'd from p.2)

by S. Werber

long as the professor retains a proper degree of discretion and the lines are moderately flexible.

As to uniform examinations, the infringement upon Academic Freedom is better taken. I can readily understand that those who oppose uniform examinations properly believe that this will create an unwarranted impact upon the selection of materials, subject matter and legal philosophy of the professor. In addition, the latent practical difficulties of uniform examinations must be recognized. A uniform examination is not impossible, but even Professor Goshien and I found the task quite hard, and each of us had to make considerable compromise though we used the same casebook. We overcame the difficulties largely because of the personal relationship we share and a largely similar teaching and grading philosophy. Others are not in such a position and might be unable to agree on the text, the type of question, what a good answer is and what a proper grade is among other things. The faculty properly determined that uniform examinations are not the proper nor complete solution and are not tenable.

Student Protest: Ladies and gentlemen of the student body and especially the SBA, you blew it. Because you did not like the suggested norms propounded by Professor Sonenfield and I, you managed to convince the faculty to refuse to enter any guidelines. Regrettably, several of you bore the fruit of your own misguided efforts. Your opposition was based on two primary "flaws" namely that (1) D and F grades could still run as high as 25 percent (a lot better than 45 percent) even though they could also run as low as 0 percent and that it was suggested (though not required) that in first-year courses 5-10 percent of the class might receive a grade of F—with the deviation, the percentage ran from 0 to 10 percent; and (2) the standards suggested would do little to raise the cumulative averages of the student body; a raise which you felt necessary for employment purposes.

Certainly the range of norms is subject to honest disagreement and should be reviewed on a regular basis, but no member of this faculty that I know of will ever surrender the right to any grades in most courses. Despite the overall strength of the student body there will be some that do not fulfill their potential and others whose intelligence is simply not attuned to the study and practice of law, though certainly attuned to many other fields as complex. If we were to graduate such persons (and here I urge the Academic Standards Committee to conspicuously notify all students and applicants of the current standards for academic dismissal and to more rigidly enforce same) their incompetence on the bar examination or possibly in practice (as almost any damn fool can pass a bar examination eventually) will injure their clients, and greatly handicap our efforts to build a solid reputation for this College of Law. Some flexibility is needed, some limits must be set—but the right must remain. Too many of you seem to take the approach of the immature child that law school acceptance means you are qualified to practice if you have the patience to stay in school a few years. That attitude is precisely what destroyed the reputation of this College of Law some years ago because the truth of the matter is that it simply is not so.

The second gripe is more serious and has, perhaps, more validity. But even so it was no reason to throw out the baby with the bath water. Certainly employers look to grades as an indication of ability and many large firms will accept only Law Review members. Does this mean that every student should be on Law Review? The farce is clear when put in that light. If every student graduates with a 3.1 cum, how long will it take for employers to catch on to the fact that our grades are meaningless? Yes, the current overall cumulative averages are too low, and guidelines can be used to raise them to a more acceptable yet valid point. I think that the suggested norms would have done this, but even the computers cannot really tell us, as the problem is so complex as to permit proper programming (a problem which should be overcome). Time alone will tell us and for time to do so, the guidelines must be enacted, followed and then analysed. I will personally vote for any guidelines that a majority of this faculty agrees to. For so long as grades are required a problem will exist that must be resolved.

To my colleagues, my fellow committee members on the Examination and Grading Practices Committee, and the students (who are my most important colleagues) I ask but one thing—let us get together and act. I am confident that the suggestion of grading guidelines is a good one and that if we really talk about it a solid and valid system can be devised. We must end the chaos now and not talk about it in small groups, hoping that it will go away. Neither adamant cries of "Academic Freedom" nor childish cries of "no one can fail" can be permitted to destroy a method that might place grades and grading practices in proper perspective. If anyone has a better way, within the framework of a grading system, please advise, and I will be happy to present it to the Committee and/or the faculty.

**IMPORTANT!
EXTENDED
OFFICE HOURS
OF
ADMINISTRATION**

NEW HOURS

MON. - THURS.: 6:00-6:30 P.M.

FRIDAY: UNTIL 6:10 P.M.

**AVAILABILITY OF
DEAN AND STAFF
AFTER 6:30 P.M.
EXISTS IF
APPOINTMENTS
ARE MADE!**



"I'LL NEVER GET TO CHRISTENSEN'S OFFICE THIS WAY...."

TOWER SUITE

**A NEW
MUSICAL COMEDY**

by Burr and Lila Anderson

"Hello Yon Classroom"
(to the melody of
"Hello Young Lovers")

Hello yon classroom wherever you are.

I hope your location is known.
All my prayers are spoken tonight.
I've got to find you alone.

You know my complaint.
When ventilation is faint,
And I fall to the floor from my seat.
I fall from my seat
on the chance that you'll see
condemnation, if only by me.

Be loud yon teacher whoever you are.
Get louder and yell so we'll hear.
All of your voice is needed tonight.
Let's have the case law ring clear.
Public address systems aren't here
this year.
That missed the budget last year.

"Up There"
(to the melody of "Somewhere")

There's some floors for us
Up there some floors for us
rooms and windows and faculty
elevators take you and me
Up there, up there, up there.

We'll find some atmosphere legal
too thin for any known eagle
Up there, up there, up there.

There's a school my friend
floors twelve, four, nine, the end.
Pick your buttons more carefully
or take stairs and feel wearily
Up there, up there, up there.

"I Could Have Searched All Day"
(to the melody of "I Could Have
Danced All Night")

I could've searched all day
I could've searched all day
and still not parked my car.

I could've found a spot
in CSU parking lot
but only by permit

I never knew I must get here so early
and fight cars parking hurly-burly.

I never knew when I
paid tuition in July
I'd have to sell my car and fly!



CURRENT STATUS AND COMING EVENTS IN P.A.D.

by J. Aussem

The Meck Chapter of Phi Alpha Delta Law Fraternity International is proud to announce the initiation of: Al Borazanian, Glen Broz, Mark DeVan, Steve Froberg, Gary Goldstein, Paul Hertrick, David Hockman, Glenn Jones, Russell McLaughlin, Carl Noll, Michael Occhionero, Richard Pellitier, Michael Sanson, and Lynn Schleusener as new active members in good standing.

This group of fourteen future lawyers became members of Phi Alpha Delta on August 6, 1972 in a ceremony in the Court of Common Pleas of Cleveland with the Honorable Ralph S. Locher presiding, followed by a party for the new members and their families at the home of past Justice Thomas Longo.

Phi Alpha Delta is a Professional Law Fraternity dedicated to the precepts of service to the student, service to the law school, and service to the profession. In keeping with this dedication, the Cleveland State Chapter of P.A.D. is sponsoring special activities for the law school community. P.A.D. is currently arranging the opportunity for all interested students to go on a routine patrol with a Cleveland Police patrol car unit to experience a more practical side of criminal law in which most lawyers don't come in contact.

On November 11, 1972, P.A.D. will present a seminar on estate planning for the young attorney and his client. Present, will be a member of the Ohio Bar specializing in estates,

wills and trusts; an insurance and estate planner who is also an attorney, a personal insurance planner, and a registered stock broker of a New York Stock Exchange Member Firm.

Special events such as these are planned for each quarter of the coming year in addition to P.A.D.'s traditional activities which include: the compilation and updating of the final exam books in the library, the presentation of a practice exam in the latter portion of the Fall quarter for first year students, and the social activities of P.A.D. which give members, students, faculty and alumni the opportunity to exchange ideas in a different environment.

Phi Alpha Delta will hold its next initiation on October 21, 1971. All interested students and faculty should contact one of the officers: Margaret Jambor, Justice; James Aussem, Vice-Justice; John Soucek, Clerk; Michael Monteleone, Marshall; Thomas Brown, Treasurer or any active member. If you are unable to personally contact any one of these individuals, leave your name and phone number in the P.A.D. mailbox on the 12th floor of the University Tower.

The Meck Chapter of Phi Alpha Delta looks forward to this being the finest year in the history of the Cleveland State University Cleveland-Marshall College of Law. We also intend to do all we can to make it such.

SECOND AND THIRD YEAR STUDENTS

Alex Jamieson of the Law Placement Office has arranged the following schedule of interviews in October and November for second and third year law students. Any student interested in an interview with the firms and agencies listed below must sign up for an appointment time at the Placement Office on the twelfth floor of University Tower and also submit the appropriate number of copies of his resume to be placed on file there by Mr. Jamieson.

Please check the Placement bulletin board in Room 1201 for further notices on interviews and also for any changes in scheduling.

Monday, October 16, 9:00 a.m.-5:00 p.m.; Arter & Hadden, Cleveland 2nd year students for Summer Program, ROOM: UT 1210.

Tuesday, October 17, 9:30 a.m.-4:30 p.m.; Kahn, Kleinman, Yanowitz & Arnson, Cleveland, Bernard R. Hollander, UT 1210.

Thursday, October 19, 10:00 a.m.-7:00 p.m. Jones, Day, Cockly & Reavis, Final Year Students, Cleveland and Washington, D.C., James C. Sennett; UT 1210;

Friday, October 20, 9:00 a.m.-5:00 p.m.; Jones, Day, Cockly & Reavis, 2nd year students for Summer Programs, Cleveland, Keith A. Savidge, UT 1210;

Tuesday, October 24, 9:00 a.m.-3:30 p.m.; U.S. Coast Guard—All Locations, For Commissions as Law Specialists, Lt. James Grier, Jr.; UT 1210;

Friday, October 27, 2:00 p.m.-6:00 p.m.; Arthur Anderson, (Public Accounting) Cleveland, Art Friedman; UT 1210;

Friday, November 3, 12:00 Noon; Reginald Heber Smith Fellowship, Program (Various Locations) Meeting to explain Program, UT 916;

Wednesday, October 25, 9:00 a.m.-12:00 p.m.; Eckert, Seamons, Cherin & Mellott, Pittsburgh, Pa., Edwin L. Klett; UT 1210;

Wednesday, October 25, 1:00 p.m.-6:00 p.m.; U.S. Defense Contract, Administration Services Cleveland & Elsewhere, James E. Silliman; UT 1210;



Thursday, October 26, 12:00 Noon; U.S. Department of Labor, Office of the Solicitor, All Students, All Locations, Meeting to explain work, etc. of Dept. A.A. Caghan, Regional Attorney; UT 916;

Monday, October 31, 9:00 a.m.-12:00 N; McDonald, Hopkins & Hardy, Cleveland, 2nd year Students for Summer Program, T.D. McDonald, UT 1210;

Monday, October 31, 1:00 p.m.-6:00 p.m.; McDonald, Hopkins & Hardy, Cleveland, Final Year Students, Thomas Keene; UT 1210;

Thursday, November 2, 1:00 p.m.-6:00 p.m.; U.S. Department of Labor, Office of the Solicitor, Final Year Students—All Locations, A.A. Caghan, Regional Attorney; UT 1210;

Monday, November 6, 9:30 a.m.-5:30 p.m.; Baker, Hostetler & Patterson, Cleveland—2nd Year Students for Summer Program, Al Knopp; UT 1210;

Tuesday November 7, 9:00 a.m.-6:00 p.m.; Squire, Sanders & Dempsey, Cleveland, Ivan L. Otto; UT 1210;

Wednesday, November 8, 2:00 p.m.-5:30 p.m.; Internal Revenue-General Counsel, Various Locations, Joseph P. Crowe; UT 1210;

Thursday, November 9, 9:00 a.m.-5:30 p.m.; Squire, Sanders & Dempsey, Cleveland—2nd Year Students for Summer Program, Dan O'Loughlin; UT 1210.

Thursday, November 16, 9:00 a.m.-12:00 N; VISTA, All Locations, Ken Shewman, UT 1210;

Thursday, November 16, 2:00 p.m.-6:00 p.m.; Internal Revenue Service-District Director, Cleveland & Elsewhere, Tom Cozzens; UT 1210;

**MOOT
COURT
NIGHT
WILL BE HELD ON:
OCTOBER 28, 1972.**

The Gavel

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