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# THE GAZETTE

The Student Newspaper of  
The Cleveland State University  
College of Law

VOLUME 22 NO. 3

## LEGAL EDUCATION?

by Richard Musat

Law Schools attract students with diverse goals and objectives. All these people have in common the study and pursuit of Law - for a plethora of reasons. In recent years there has been an increase in applicants to law schools, this is said to be for a triad of reasons. 1) In 1950 the average lawyer made \$5,000. In 1970 this figure skyrocketed to \$25,000 - there was a nationwide shortage of lawyers. 2) The Ph.D market became saturated which led a large number of potential Ph.D people to the study of law. 3) The attraction of a legal career to people motivated by strong feelings of social change. This last group is dominated by humanitarian concerns and its members felt they could best effectuate their goals through the legal system. The following article is a commentary on law school and the last group mentioned above.

The law student who is motivated by humanitarian feelings may find himself in a state of shock during his tenure at a law school. His first confrontations with a law school professor may leave him in aghast. The professional training that is being offered to the student by the instructor is viewed quite differently by both. The student views legal training as a mechanism to utilize for humanitarian ends. The professor views it as an end in and of itself. The student's humanitarian values lead him into boredom with the educational process and he or she has less than a fervor of interest in the dialectic of traditional legal education for its own sake. Thus, we have a conflict of values. The student rejects what the professor prizes deeply - call it the art of the socratic-type method intertwined with the subject matter in a labyrinthine manner. This dilemma may be caused or enhanced by the peculiar pedagogical problem of the law instructor. The law school, unlike a graduate school, is not out to produce itself. i.e. Other law school instructors. The law school professor is out to do something quite different, not create new law school instructors but, for the large part, to produce future practitioners. A concurrent factor involved with the problem is the pure fact that most law school instructors have had no instruction in teaching methods. Quite often, they are only aware

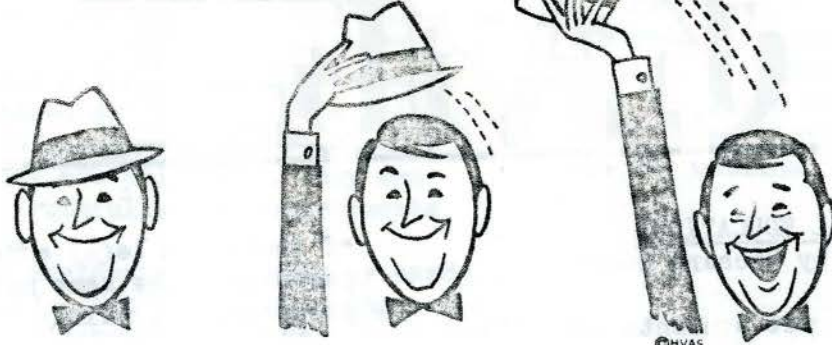
of their own legal education and tend to perpetuate the same methodology as their predecessors, mainly through a self-asserting form of the socratic method. To further enhance the law professor's problem, the legal profession (Bar examiners) rather than the faculty set down guidelines on what is supposed to be gotten out of the three year period.

The student confronted with this situation finds him or herself further "burdened" by the inevitable development of creative abilities brought forth from undergraduate school. It is no wonder that one law school dean in his address to pre-law students noted that law schools favor an undergraduate program of mathematics, physics and engineering - the problem solving sciences. His rationale is that these disciplines provide a wealth of analytical skill useful in legal study. I would debate that it is not these skills that are of value but rather the lack of creativity, social awareness and human values that are often inherent in these undergraduate fields. Do we not need more creative legal thinkers to provide new causes of action and more varied arguments to break down the crucible of stare decisis and "leave it to the legislature" arguments that have plagued our legal system's ability to deal with problems? These factors should prevail in order to do justice case by case rather than trying to achieve "probability" in the law. If the common law's greatest ability is to change in order to meet the pressing exigencies of the time - Why then, is so little class time utilized in discussing what possible forms of remedy can be sought for when the law has worked to an injustice in a given case? Is this not a duty incumbent on each of us as law professors and future advocates?





# hats off!



## MARKOWITZ ON CURRICULUM REQUIREMENTS REVISITED by Prof. Robert Willey

The Supreme Court Rules for the Government of the Bar, No. 1, Section 4(a) requires of each applicant for admission to the Bar an affidavit that he has read and studied the Code of Professional Responsibility. Section 4(c) requires the Dean certify that the applicant has received instruction in legal ethics.

The Dean has made a request of the Curriculum Committee that it consider the adequacy of our treatment of legal ethics. Obviously, he needs current information as to whether he can execute the required certificate. The Bar, since Watergate, has requested evaluation of current practices concerning our instruction in legal ethics. In, fact, since our last committee meeting, I have found out that the problem is of at least statewide concern. Starting with the premise that the law schools have been "very liberal" in certificating legal ethics instruction, the Cincinnati Bar Association has made a request of Chief Justice O'Neill of the Supreme Court of Ohio that the Court require each applicant to have completed a course in Legal Ethics. The Chief Justice submitted the request to a Special Committee of Past Chairman of the Board of Bar Examiners. This Committee recommended the court require each applicant for admission to the bar to have completed a course of not less than twenty hours of classroom work. Chief Justice O'Neill has notified the League of Ohio Law Schools of this proposal, and has asked for an expression of opinion. The League has just made this information available to the law schools and has requested commentary thereon.

But, in addition to the problems of the Dean, the Bar Association and the Supreme Court of Ohio, the Student and practitioner have a problem. General ethical considerations may not alert them to some of the subtle requirements of the professional code.

Watergate is not really relevant to the study of professional ethics. No one needs to study the Code to know that lying, burglary, perjury, obstructing justice, or offering the directorship of the F.B.I. to Judge Byrne are wrong. No one imagines that the Code will deter such persons in the future anymore than it has in the past; yet there are many problems in practice that seem innocuous at first glance that involve ethical considerations of great magnitude. It is these that should be considered in a series of lectures on professional responsibility so that all can be aware of the kinds of situations where one might blunder into a position where his or her

conduct might be questioned.

By way of history, required courses in Legal Ethics were once the norm, though they were never considered effective by the student. Rather, they were considered somewhat like a chapel requirement. Gradually they were eliminated from the law school curriculum, and the resulting void was noticed. Prof. Smedley of Vanderbilt led a movement to encourage each professor to incorporate ethical materials and problems in his or her individual course. This pervasive approach to giving instruction in legal ethics never really penetrated the law schools to any great extent, and when it did, it did not often cause or encourage an in-depth treatment of the basic ethical issue involved, or the professional rules that might be less directly related to the issue considered in class. The pervasive approach has been the norm for the last decade or so, and you can adequately judge it. It can be argued, as the Cincinnati Bar Association is doing, that it does not satisfy the requirements of the students, the Dean or the profession. Assuming that such a view is widely held, it seems that something need to be done. If the required course-tuition-exam-paper was not satisfactory and did not accomplish its purpose in the past, one hesitates to reestablish and rely on it now. Certainly, we do not want such a requirement imposed on us from without.

A middle ground that might prove acceptable to the profession and which is currently under consideration at this and other law schools is a series of five or six lectures. In view of the certification requirement imposed on the Dean, attendance of each individual would be essential. In view of the student affidavit responsibility, such a series might be both beneficial and welcome. Since some students might have to be absent from each lecture, a tape might be made available for these individuals. I would think the Dean could accept an affidavit from each student that



he has heard such lecture in the series. It might even be possible for a student to attend the substitute tape session constructively via Sony. Even so, if he eventually listens, in person, reads, studies, and so certifies, the benefit is his and accrues to the profession as well.

I would hope our consideration of this problem would convince the Bar that we intend to make what we think is a better effort to instruct in Legal Ethics. In light of history, it would seem that this approach would accomplish more than a required course. Still, maybe you would rather have a required course. If so, or if you have any constructive suggestions, please communicate them to me. Please communicate all other suggestions to Mr. Markowitz.

A FAINT FANFARE

The Cleveland State University Board of Trustees selected architects for the new \$4.7 million College of Law building.

The firm is Van Auken, Bridges, Pimm and Poggianti of Cleveland. Two of the firms members have the distinction of being associated with the architects that designed that wonderful building that we enjoyed last year - University Tower.

According to Thomas E. Haynes, CSU vice president for planning, construction will start in early 1975 with a projected completion date in the fall of 1976.

LAW SCHOOL NEWSPAPERS

THE GAVEL receives newspapers from numerous Law Schools across the nation. In the future these newspapers will be available for anyone who would like to look at them. They can be found at the Newspaper reading rack in the Law School Library. Please do not rip them off. Thanx.

LOOKING FOR A JOB?

Law Placement-Final year students

Wednesday, October 24  
10:00 a.m.-6:00p.m. Squire, Sanders & Dempsey  
Room 1037 Eric Oakley

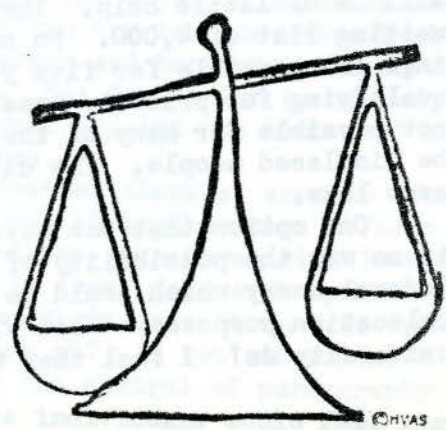
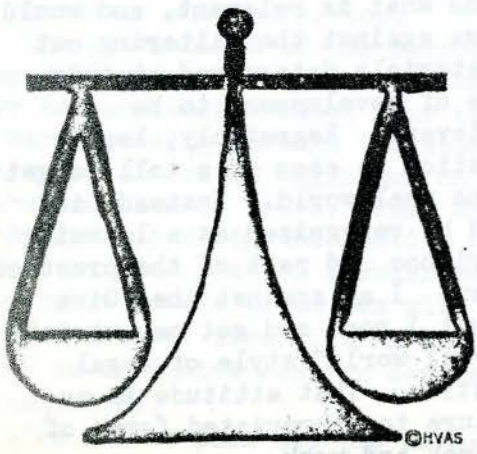
Thursday, October 25 Peat, Marwick & Mitchell  
1:30-6:00 p.m. (public accounting)  
Room 1037 for tax department  
Ed Rose

Tuesday, October 30 Ginsberg, Guren &  
9:00 a.m.- 5:30 p.m. Merritt  
Room 1037 Warren K. Ornstein

SBA SENATORIAL ELECTION

Elections of senate members of the Student Bar Association will be held on Tuesday Election Day, November 6, 1973 and November 7, 1973. A table will be set up in the student lounge and students may vote on the above dates between 11:30 A.M. and 1:30 P.M., 5:00 P.M. and 6:30 P.M. and 7:30 P.M. and 8:00 P.M.

All students wishing to run for the office of senator in the SBA must fill out forms available at the SBA office in the basement. Deadline for candidates to submit these forms to the SBA office is October 29 at 5:00 P.M.





The Cleveland State University has been authorized by the Legislature of the State of Ohio to spend over four million dollars in the next two years to acquire and ready for use and development land on the western border of the university, specifically 20 th street between Euclid and Chester. This street is lined with rooming houses, hotels, and apartments which are the homes to Cleveland's forgotten and elderly poor people.

Negotiations have already been completed concerning two parcels of land on the street. One building now belongs to CSU. Concerning the other it is just a matter of time before title passes to the university. Until all the other property can be purchased - and the university is confident that it all will be acquired - CSU is and will be in the position of landlord and property manager. When acquisition is complete the buildings will be razed. Obviously by that time the present tenants must be gone.

The university has no legal responsibility to the people in terms of their relocation. State monies may not be used toward this end. CSU does claim moral responsibility however, which seems to mean that they will profess good intentions to the end.

Why should the university feel any responsibility to the present tenants at all? Their councilman is reported to not care at all. There is little voter registration in the area and less votes. A perfect opportunity was raised this past Saturday to show interest in this community at University-Community Day. Nothing was planned for or about the people of 20th street.

But CSU does have an image to maintain. And it is well aware that no good will be done to this image if CSU is forced to throw old poor people out on the streets if they refuse to cooperate and move.

CSU is determining its options. One that has received the most talk and comment is Relocation Assistance. CSU administrators claim to have several sources which will help them in re-locating the tenants. The sources are the county and the city. While this newspaper was being printed administrators were meeting with directors of CMHA. When I talked to administrators at CMHA I found that CMHA will be of little help. There is a waiting list of 4,000. No new buildings are possible for five years and qualifying for priority treatment is not possible for many of the soon to be displaced people. The city can do even less.

One option that was never raised to me was the possibility of attracting Federal money which could be used for relocation purposes. What will the university do? I feel they will try

to attract as little publicity as possible whatever they do for they probably feel that any publicity will be negative. This is a decision that will be made at the highest levels of the administration. If CSU feels it must be generous to the people of 20th street in its own best image interests then both the university and the people of 20th will benefit.

#### THE NEW FACULTY ON THE TEACHING OF LAW

The following statements were gathered by Barbara Stern.

PROFESSOR STEPHEN LAZARUS: The clinical program, of which I am a part, tries to integrate the traditional academic concepts of law school with those encountered in actual practice. It is an attempt to bring representation of a real client into the experience of the law student. In this way, the student learns practical skills and gains a greater perspective of the academic program. Teaching a student how to deal with a client also makes him more aware of his obligation to society at large. While academic and clinical programs and teachers have been separated in the past, our law school provides an exception to that practice. I hope this will be continued here, for each approach has much to learn from the other.

PROFESSOR DANIEL MIGLIORE: Legal education should be responsive to the different social trends, but not to the exclusion of traditional concepts. Often at law schools a considerable deference is paid to "relevancy"-i.e., those areas whose usefulness has an immediate visibility. Yet in so doing, the developing of legal skills and analysis and the value of legal history and precedent are often ignored. I question students' abilities while immersed in the process of a legal education to decide what is relevant, and would advise against the filtering out of materials determined at this stage of development to be irrelevant. Regretably, legal education is seen as a toll to get to the real world. Instead, it could be recognized as a learning experience and part of the practice of law. I am against the "Give me what I need and get me out into the real world" style of legal education. That attitude is an overture to abbreviated forms of research and work.



PROFESSOR CALE SIEGAL: I am very much interested in improving the teaching of law students. Learning should be fun, and can be, with innovative methods. It's too easy for a professor to say 'We're teaching students to think.' Indeed, all of us law teachers need to evaluate 'lawyer-ing! The case method teaches from a very narrow vehicle so that by the time a student is in his last year, his ability to apply what he has learned is constrained. Also, students are separating what they learned in their first year from later problems so that in their final year even the most simple issues are too complex to answer. Students should be approaching their basic theory years realizing that they are useful and necessary to the practice of law. We teachers should be providing the continuity that is necessary. Also, there should be more emphasis by each professor in every course on the lawyer's professional responsibility. We shouldn't be turning out technicians.

PROFESSOR BARDIE WOLFE, JR: The function of a legal bibliography course is to test the student's knowledge of how to find the law. My approach is to have the "test" center around a particular fact situation, which makes the mechanics of learning legal research easier and more interesting. Our law school library has almost 90,000 volumes which students should be familiar with. In addition to satisfying the needs of the traditional law courses, we're trying to meet the students' needs regarding the newer courses by broadening the scope of our collection. Also, we have placed top priority on obtaining more treatises and additional copies of law reviews. In this respect, we are considering microfilm, which will have a tremendous impact on our library. It takes up less space, and costs about 50% less than hardbound copies of books. We're hoping to purchase federal documents, the records and briefs of the Supreme Court of Ohio and the Supreme Court of the United States, as well as law reviews, on microfilm. It is expected that two types of readers will be purchased: one type solely for library use, to be permanently stationed there, and the other type a portable unit, for checkout use, much the same as is done with a book.

"THE EPIDERMIS: FIRST AMENDMENT PROBLEMS"  
by Burr Anderson

"Everybody comes in here. We get married couples, usually women don't come without an escort. But they'll come in alone. I've seen married couples see the movies together when the woman was pregnant. And we get police as customers, too."

The young clerk of the pornography store stepped down from the perch by the cashregister and approached about four teen-agers who were browsing through the seemingly limitless array of erotic magazines on display. He instructed them to leave. They walked slowly to the door, passing the section of sado-masochism, then that of lesbianism, then the innumerable novels about sex with animals, older women with boys, incest, and, at the end of the store, an expansive section devoted to male homosexuality.

"We had to pull all the hard-core material

about three months ago. That means any films or magazines that show penetration by the male phallus. Novels haven't changed because, I guess, Perk's smut squad figures little kids can't read."

This store and approximately twenty-five other pornography outlets in Cleveland have felt practically no direct impact from the recent Supreme Court decision on pornography. It is clear, however, that the city's crusade of this past summer was part of the national reaction that generated from the High Court's call for community management of obscenity.

Arrests have been common since then. Nearly every store clerk or manager has felt at least one pinch from the law. Retailers have had a negative response to the busts.

"I was sitting here one night about three months ago and this guy came in and bought a magazine that showed guys doing it. No sooner was he out the door when two of Perk's detectives came in and busted me. In the car they told me that as long as nothing was sold, and nothing left the store, we'd have no problems with the law. Isn't that f--- up? I said 'how am I supposed to run a business with no sales?' You know what (Detective) Jones told me? That we should turn the place into a reading room--a library."

Another clerk, who wished to be referred to as F.P., and who works at a Prospect Avenue store downtown, has strong feelings against the Mayor. He claimed that arrests were carried out for the sake of material which was not hard-core.

"Penelli and Jones arrested a clerk here for selling something like this here," F.P. gestured toward a magazine which contained only foreplay. "They're harrassing us. It's all political. Perk's got to have his name in the papers. But he doesn't realize that these stories in the papers of citations and arrests by his "squad" are not only ads for him but are ads for us, too."

"I've been arrested three times. I know all the detectives. But really, people should be more honest. A major portion of the city goes to pornography stores."

It was the lunch hour, and F.P. pointed out the businessmen that were browsing and buying. He explained that many often try to hide themselves with sunglasses and hats with broken-down brims. "As far as I'm concerned, if they want it, let 'em have it," he declared.

Another clerk at another downtown store put it another way: "Porno is sex and sex is nature, right? What possible right does anybody have to tell someone who's over 21 what he or she can look at? If you ask a person who is for the control of pornography if they as individuals would feel right



enough to tell you or me as a person that we can't buy what we feel like, they get nervous. They see that they can't put their money where the mouth is."

Some hard-cover porno is available under the counter. One clerk brings it out to those who, when asked, can make a reasonable showing that they are not policemen or one of Perk's detectives. According to him, if they are asked whether or not they are policemen, they are obliged to answer truthfully, and entrapments are avoided.

"A lot of our customers will only by hard-core stuff," he said. "It's a major thing. They look at what we have on the side, which isn't much, and often buy nothing at all. The fact that hard-core isn't around makes business slower. People want it."

One manager said he has been arrested ten times in six months. The city is stalling the trial day, he claims, and his attorney is irate. The strategy apparently has been to join all defendants that can be found and push for a test case. Apparently this would be a harbinger of Cleveland's community standards-----beyond the initial no-penetration directive.

OF CRIME AND PSYCHIATRY

To the Editor:

The time has come to separate clearly the problem of crime prevention from the problem of crime control.

Psychiatrists like myself know that true crime prevention depends on our ability to alter drastically the moral character and impulsivity of people - an ability we simply do not possess today. The misguided liberals who believe that only jobs, money and housing will alter criminal behavior are paying no attention to our present-day knowledge of character structure and human behavior.

While we are waiting for new and successful approaches to crime prevention we must institute all available methods of crime control now. First of all, we must accept the fact that we need to wage all-out war against the criminal.

If this means posting armed militia on every square block of the city, let's do it. If this means having armed guards in every subway, let's do it. If this means installing television monitors in every public place let's do it. If this means giving each citizen an electronic device that can summon instant help, let's do it.

I, for one am tired of being enslaved within that narrow channel that leads from work to car to home. I want my freedom. And I want it now.

/s/ Julius Buchwald  
Brooklyn, Oct. 4 '73

(reprinted from the New York Times)

PROFESSOR FLAHERTY ASKED TO CHAIR  
BAR OUTLINE COMMITTEE

Professor Flaherty has been asked to be chairman of a committee to revise the Bar Outline on Trusts and Wills. The request came after the Ohio League of Law Schools approved participating in the revision of the Bar Outline.



THE CONSTITUTION OF THE UNITED STATES

Article II Section 4

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

CARE ABOUT JUSTICE?

The ACLU of Greater Cleveland, located just one block from campus, is in need of additional law student volunteers.

By committing as little as five hours a week, you can gain substantial experience in client interviewing, investigation, research, drafting of pleadings, brief writing, and the evidentiary preparation of cases.

If YOU are willing to take on the challenge of a situation where the cases are real and the clients genuinely need your help, call Gordon J. Beggs, ACLU Executive Director, at 781-6276.

WORK-STUDY FUNDS AVAILABLE

ATTENTION STUDENTS: Work-study funds are still available for the 1973-4 academic year. If you feel you can qualify, please contact Barbra Sper in the Financial Aid office, Room 1041, as soon as possible.



The second faculty meeting of the quarter was held on October 12. Administrative announcements included the news that Prof. Auerbach would be back in school the following week, on a part-time basis for the present. Dean Christensen also acknowledged the fact that Prof. Picker would be arguing in front of the Supreme Court. This must be recognized as a high distinction for the school.

The next point of business which contained some quantum of relevance was the election of a representative and alternate to the annual meeting of the American Association of Law Schools. The representative by unanimous consent was Prof. Howard Oleck, and the alternate was Prof. Kevin Sheard. (Both are incumbents)

The next item on the agenda was an introduction of a resolution concerning the plight of Farag T. Sarofim. The Graduate Studies Committee, in an effort to bring the problem to an end, proposed to the faculty a compromise resolution. The resolution is as follows:

" The Graduate Studies Committee move the Faculty of the College of Law to grant the degree of Master of Law to Farag T. Sarofim in the event that he take and pass a comprehensive oral examination in his thesis topic, such examination to be administered by a committee of three faculty members to be chosen by the Graduate Studies Committee."

There was, somewhat surprisnly, very little discussion on the resolution. Apparently, from what was said to this reporter off the record, this was the compromise that most of the faculty were anxiously looking for. There was, in fact, an overwhelming majority who voted in favor of the resolution.

The final point of business was a report and discussion of the Clinical Legal Education Program. The C.L.E. Committee presented a report which appeared to be a preliminary draft of a revised program, which will go into effect on July 1, 1974. For those of you who might wonder what the hurry is, just remember that bureaucracy is the mother of red tape. If one wants to be funded by CLEPR (an institution with federal and private funds at its disposal) a proposal must be submitted by the middle of October. In order to accomplish this task, the faculty accepted a resolution which allows the C.L.E. committee to submit their proposal to CLEPR for funding purposes but will give the faculty the right to taketh away if it later so desires.

The major points of disagreement which will become prominent in the near future are: 1) The hiring of a staff attorney. 2) The hiring of an office manager. 3) The disbursement of credit hours ( one four hour course and two seven hour components are proposed) and 4) The number of students involved in the program.

Discussion on the clinical program and the report centered on the four points enumerated above. There was nothing resolved except for the aforementioned resolution but much ado about something will surface in the near future - it's inevitable. The meeting was then adjourned.

courtroom blues

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climb cracked marble.  
leather bound in hand.

liquid gold seating.

SOLEMNITY

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the other - not so - plunged into the reality that oppresses.

one makes money.  
one sees his subjection.

-LRM/93

# The Gavel

VOLUME 22 NO. 3

Richard Musat, Editor-in-Chief  
Burr Anderson, Executive Editor

Andrea Kleinheinz, Assistant to the editors  
Tom Buckley, Faculty Advisor

THE GAVEL STAFF: Ted Meckler, Bruce Rose, Chris Stanley and Barbara Stern

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