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## Foreword, 41 J. Marshall L. Rev. xxvii (2008)

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# FOREWORD

NANCEE ALEXA BARTH

On April 18, 2008, *The John Marshall Law Review* hosted a symposium on The Criminal Law Edit, Alignment and Reform (“CLEAR”) Initiative. The symposium was the culmination of over two years of research and revision by the Illinois CLEAR Commission. Composed of a group of judges, politicians and criminal law practitioners, the Commission was dedicated to revamping the language and spirit of the Illinois Criminal Code.

The symposium grew from the enthusiasm of Professor Timothy P. O’Neill, Professor Emeritus John Decker, and CLEAR Director Peter G. Baroni. The Law Review Editorial Board, with the invaluable guidance of Associate Dean Ralph Ruebner, began planning this major event in the spring of 2007. The symposium consisted of five one-hour panels and a keynote address during lunch. Panelists included CLEAR Commission members and other prominent figures in Illinois criminal law. These panelists addressed many important issues regarding the CLEAR Initiative. More than one hundred and fifty distinguished guests attended the symposium.

The first panel included Professor Emeritus John Decker, Cook County State’s Attorney Richard Devine, Illinois Appellate Court Justice Thomas Callum, and Illinois Association of Chiefs of Police Executive Director Giacomo Pecoraro. The panel outlined the CLEAR Commission’s purpose and methodology as well as their accomplishments. The panel concluded that the reorganization of the Code will result in a much more useful and accessible codification of Illinois penal law.

Led by Jenner & Block partner Terri L. Mascherin, the second panel addressed the changes that the CLEAR Commission made to the laws governing sex offenses in Illinois. Ms. Mascherin carefully identified the places where she believed CLEAR stopped short of its goals and suggested future reforms. President of the Illinois Fraternal Order of Police Ted Street and Sangamon County State’s Attorney John Schmidt deepened the discussion by explaining the realities of criminal prosecution for both victims and defendants.

The next panel addressed the CLEAR Commission’s efforts to remedy problems created by the second degree murder statute of the 1986 revision to the Illinois Criminal Code. Panelists included Judge Michael P. Toomin, DuPage County State’s Attorney Joseph

Birkett, and Public Defender Victoria Rogers.

At lunch, keynote speaker Justice Gino DiVito discussed the formation of the CLEAR Commission and the evolution of its goals. He detailed his experiences leading the CLEAR Commission through its frequent meetings and explained the methodology behind many of the Commission's major decisions.

Following the keynote address, Theodore Gottfried, Professor Timothy O'Neill, and CLEAR Director Peter G. Baroni spoke about the CLEAR Commission's efforts to implement permissive inferences in place of unconstitutional mandatory presumptions. The panel also addressed the Commission's efforts to include in every criminal offense a mental state requirement in order to remove strict liability and require prosecutors to prove each requisite mental state. The speakers further explained that having a finite number of mental states will ensure the accuracy of charging papers and improve jury instructions.

The final panel included Illinois State Senators John Cullerton, Kirk Dillard, and John Millner and Illinois State Representatives Robert S. Molaro and Jim Durkin. The legislators addressed the creation of both a Criminal and Sentencing Review Commission, as suggested by the CLEAR Commission. The panel explored the ways in which these commissions could correct the current problems in the criminal justice system.

It is my pleasure to present to you this symposium issue of *The John Marshall Law Review*. In these pages, CLEAR Commission members and symposium panelists analyze in detail the important issues surrounding the CLEAR Initiative. The following articles provide insight into the CLEAR Commission's changes to the Illinois Criminal Code. This issue also contains the official commentary on the revisions to the Code. We anticipate that this work of scholarship will be an invaluable tool for judges, practitioners, and legal scholars in applying and interpreting the CLEAR Commission's changes to the Illinois Criminal Code.

Nancee Alexa Barth  
Editor-in-Chief 2007-2008