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D VILLANOVA DOCKET



VOL. 4, No. 2

VILLANOVA, PA.

DECEMBER, 1966

ALUMNI AID SOUGHT FOR PRIVATE EDUCATION

RED MASS CELEBRATED

Auxiliary Bishop of Philadelphia, Gerald V. McDevitt, was the celebrant of this year's Red Mass, which took place in the University Chapel.

This annual event, now in its tenth year, is celebrated to invoke Divine Blessing upon the School of Law of Villanova University and upon all who study and teach therein.

The title of the "Red" Mass and its custom date back to the time in our history when judges as well as priests wore red. The tradition has developed for judges and attorneys to seek the blessing of the Holy Spirit through the Red Mass; and it is this tradition which the law shool perpetuates each fall.

The ceremony itself is beautiful and very impressive spiritually, this year being no exception. The beauty ranged from the red vestments worn by the priests, symbolizing the Holy Spirit, to the stirring hymns sung by the Villanova Singers with organ accompaniment provided by Dean Reuschlein.

Of special interest to the many law school faculty members, alumni and students present this year was the initial appearance in the procession of the new Villanova Law School flag. Its white background with blue lettering and gold trim added to the pageantry and beauty of the exercises.

To accentuate the solemnity of the ceremony, a Solemn Pontifical Mass was celebrated, which added to the service the positions of Archpriest, Deacon, and Sub-Deacon. These positions were filled this year respectively by Father Joseph A. Flaherty, President of the University; Father Robert J. Welsh, Dean of the College of Arts and Sciences; and Father Philip F. Barrett, Dean of the College of Commerce and Finance.

The spiritual high point of the Mass was the sermon delivered by Father Vernon F. Gallagher, the Provincial of the Congregation of the Holy Ghost. The central theme of Father Gallagher's sermon was the answer that Christ gave to the lawyers who questioned him concerning the best way to attain salvation. Christ answered, "What is written in the law? How dost thou read?" (Luke 10:25).

This is a question, said Father Gallagher, that all lawyers must ask themselves at all times; for every member of the legal profession, whether great or small, makes his contribution to the mainstream of the law. The development of our law is dependent on how this question is answered.

Our laws reflect the personal philosophies and convictions of the men who make, interpret, enforce, and rescind them. Consequently, the law is like a giant pendulum, activated by the changing ideologies of time.

Ours is an age of transition; a period of ferment and challenge to the ideas of the past. The law is not exempt from this ferment, and it too will feel these challenges. Therefore, how our lawyers answer the question "What is written in

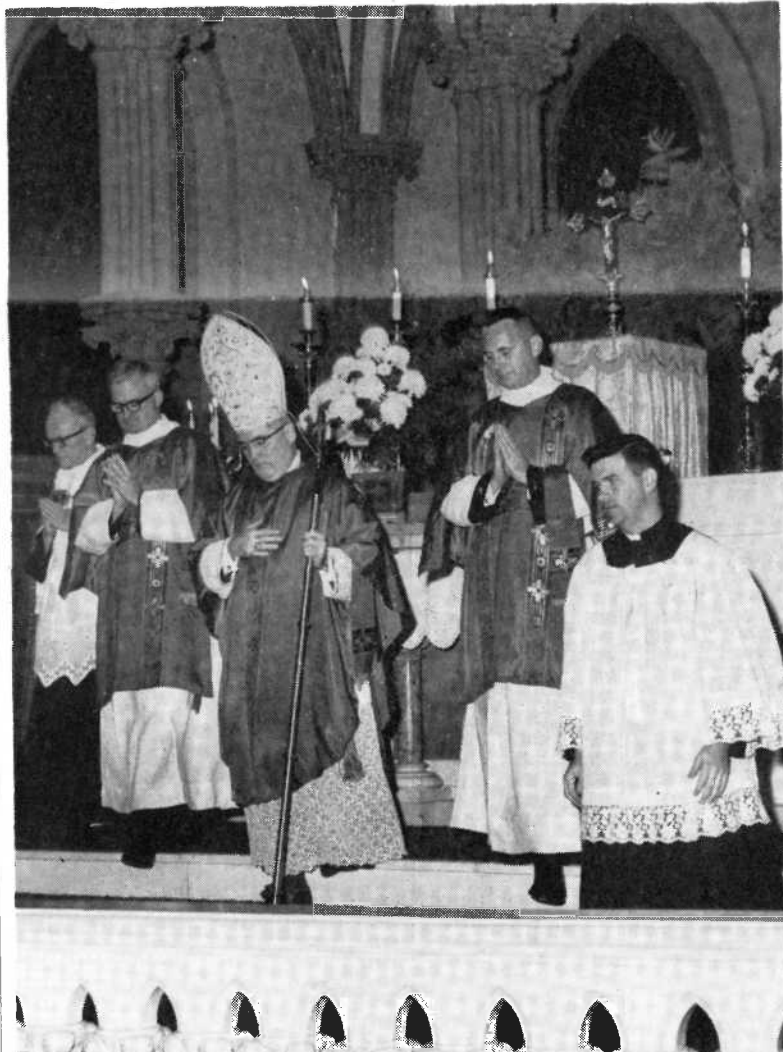
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University Holds Fall Convocation

The 125th Fall Convocation of Villanova University was held to honor members of the faculty, staff and student body for distinguished service.

This year's guest speaker was the Honorable John W. Gardner, who is the Secretary of the United States Department of Health, Education and Welfare. During the

(Continued on Page 3, Col. 4)



Auxiliary Bishop of Philadelphia, The Most Reverend Gerald V. McDevitt is seen descending from the altar during the Red Mass held at the Villanova University Chapel. Also shown, from left to right, are the Very Reverend Joseph A. Flaherty, O.S.A.; the Reverend Philip F. Barrett, O.S.A.; Bishop McDevitt; the Reverend Robert J. Welsh, O.S.A.; and the Reverend Joseph J. Gallagher.

Alumni Assn. Selects Class Representatives

The Villanova Law Alumni Assn. passed an amendment providing for permanent class representatives. Those appointed were:

Mrs. Sean D. Ryan, '56, 10 Montgomery Avenue, Bala-Cynwyd, Pa. 19004; John C. Voss, Esq., '57, 1565 Campus Drive, Maple Glen, Ambler, Pa. 19002; George S. Forde, Jr., Esq., '58, Stradley, Ronon, Stevens & Young, 1300 Girard Trust Building, Philadelphia, Pa. 19102; Charles J. Margiotti Jr., Esq., '59, 1401 Finance Building, Philadelphia, Pa. 19102.

Eugene Chovanes, Esq., '60, William Steell Jackson & Sons, 112 South 16th St., Philadelphia, Pa. 19102; Bernard J. McLafferty,

Esq., '61, Haganir, Butera, Detwiler & Butera, 516 DeKalb St., Norristown, Pa. 19401; William J. O'Brien, Esq., '62, Pepper, Hamilton & Scheetz, 2001 Fidelity-Philadelphia Trust Building, Philadelphia, Pa. 19109; Raymond R. Rafferty Jr., Esq., '63, 6312 Sherwood

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PUBLIC SCHOOL EMPHASIS COULD BE DETRIMENTAL

Last summer, the Pennsylvania State Board of Education presented its Master Plan for Higher Education, and has called for quick legislative action in support thereof.

The Plan is a necessary step in maintaining Pennsylvania's superior record in higher education. However, unless it is modified, the Plan will have a serious and adverse effect upon the ability of private institutions, including church related institutions, to continue their valuable services which have been so important in establishing Pennsylvania's superior record. Our alumni, as well as the alumni of all institutions, should be aware of and concerned about this Plan.

The principal purposes of the Master Plan are to increase the availability of higher education facilities in order to meet the added burdens which will result from increased enrollments. The Master Plan proposes to accomplish these purposes primarily by a massive program of state support of the

(Continued on Page 2, Col. 4)

ORDER OF COIF HOLDS DINNER, INDUCTS SEVEN

The Villanova Chapter of the Order of the Coif held a dinner in the student lounge to celebrate the induction of seven new members.

They are: William T. Define, Arthur M. Goldberg, Edward C. Mengel, Jr., J. Edmund Mullin, Edward J. O'Malley, Dolores B. Sesso and Richard H. Zamboldi, members of the class of 1966.

At the same time the society bestowed an honorary membership upon the Honorable William Duffy, Chancellor of the State of Delaware.

Following the dinner, the members retired to the lecture room to hear Dr. Robert Strausz-Hupe, director of the Foreign Policy Research Institute and professor of political science at the University of Pennsylvania, discuss "Strategy and the Political Imagination."

The Villanova Chapter of the Order of the Coif was established in 1961. Villanova was doubly honored by being both the first Catholic institution and most probably the youngest law school ever to have the honor society, the equivalent of Phi Beta Kappa.

To qualify for membership selection, student's grades must be within the top ten per cent of their class and also must be active participants on the Law Review.

Michael R. Bradley '63, Edward C. McCardle '62, and Edwin W. Scott '63, are the president, vice-president and secretary, respectively, of the organization. Edwin W. Scott served as the dinner chairman.

Alumni Party Set

The annual Alumni Christmas Party will be held on Saturday, December 17, at 9 p.m., in the law school lounge.

There will be plenty of "cheer" for all and a buffet will be served at midnight. The cost per couple is \$5. Let's see everyone attend.

Princeton Prof. To Address Forum



DR. P. E. SIGMUND

Dr. Paul E. Sigmund, associate professor of politics, Princeton University, will address the third meeting of the Villanova Law School Forum on Friday, December 2.

Dr. Sigmund, who will speak on "Ideologies of Political Development," received his A.B. from Georgetown University and an M.A. and Ph.D. from Harvard University. His distinguished credits include the following publications: *Ideologies of Developing Nations* (1963), *Nicholas of Cusa and Medieval Political Thought* (1963), and *Views of America* (1966).

This spring, Dr. Sigmund will be teaching and lecturing at the University of Chile. In the past he has traveled and lectured in Asia, Africa, and Latin America.

From the Dean's Desk

As I See It . . .

By HAROLD GILL REUSCHLEIN

I write this on the day following our Red Mass. It was a particularly beautiful Mass this year. As one of our priests put it: "It was the most beautiful ceremonial I have ever witnessed at Villanova."

Villanova's good friend, Bishop McDevitt celebrated the Pontifical Mass and Father Vernon Gallagher, C.S.Sp. Provincial of the Holy Ghost Fathers and former president of Duquesne preached a memorable sermon, which we shall print and distribute.



Dean Reuschlein

Father Flaherty, our president, served as Archpriest and our Augustinian Provincial, Father Sherman, attended. The Villanova Singers sang the Mass rewardingly and beautifully. We are grateful to Father Halphen for his meticulous care in arranging every detail of the ceremonies, both liturgical and patriotic.

It is gratifying to report that about 200 alumni returned for the Red Mass.

Many of their wives accompanied them. Well over 100 remained for the reception and buffet at Garey Hall following the Mass.

Our alumni will be interested to hear that a faculty committee composed of Professor Abraham, as chairman, and Professors Cleary '59, Frankino and O'Brien are engaged in a comprehensive study of the curriculum. An initial proposal of the committee for a required seminar program has been adopted by the faculty on the theory that every student will benefit by the unique and valuable educational experience to be gained from a seminar.

It is contemplated that within two years the completion of one seminar with a required paper will be prerequisite for graduation. In furtherance of this policy, five elective seminars are being offered this year.

The curriculum has been generously enriched by the addition of three new elective courses: Legal Process, Local Government and Remedies and by five seminars: Advanced Problems in Taxation, Criminal Law and Psychiatry, Frontiers of Constitutional Law, Post-Conviction Problems and Public Contracts.

Professor Collins has this fall been experimenting with a series of trial practice sessions which he designates as "Trial Practice Happenings." The theory is to give those members of the third year class who wish to participate an opportunity to gain clinical experience in the preparation of witnesses for trial, to open before juries, and to examine and cross-examine parties, witnesses and experts.

In the course of the program films and phonograph records have been utilized as well as assigned readings. Over the ten two-hour sessions, each neophyte attorney will have had an opportunity to actively engage in some phases of trial work on five or six occasions. Most sessions have been conducted before juries of students and outsiders.

Participants have included actors from the Department of Theatre who staged an unscheduled incident in the classroom to demonstrate the unreliability of a witness's memory, a professor from the College of Engineering testifying as an expert on the effect of chains as a deterrent to skidding on icy roads, a retired chain store manager as the representative of a supermarket being sued by a customer as a result of a fall on the store premises, and other outside witnesses. Student interest has been high, so much so that the program may be continued into the second semester.

Our 1966 Annual Giving Campaign has finally come to a glorious conclusion. For the second successive year, 85% of our alumni contributed. This is a remarkable record and we are inordinately proud. The class of 1961 leads in number of contributors with 93%. Runner-up is the class of 1964 with 89%. In dollar volume contributed the class of 1956 leads with the class of 1962 as runner-up. In total amount contributed we bettered last year's results by 25%. We are all deeply indebted to Larry Flick '62 for this splendid achievement.

A great many events of interest to alumni have taken place and are scheduled for the next several months.

(Continued on Page 3, Col. 4)

Alumni Locator

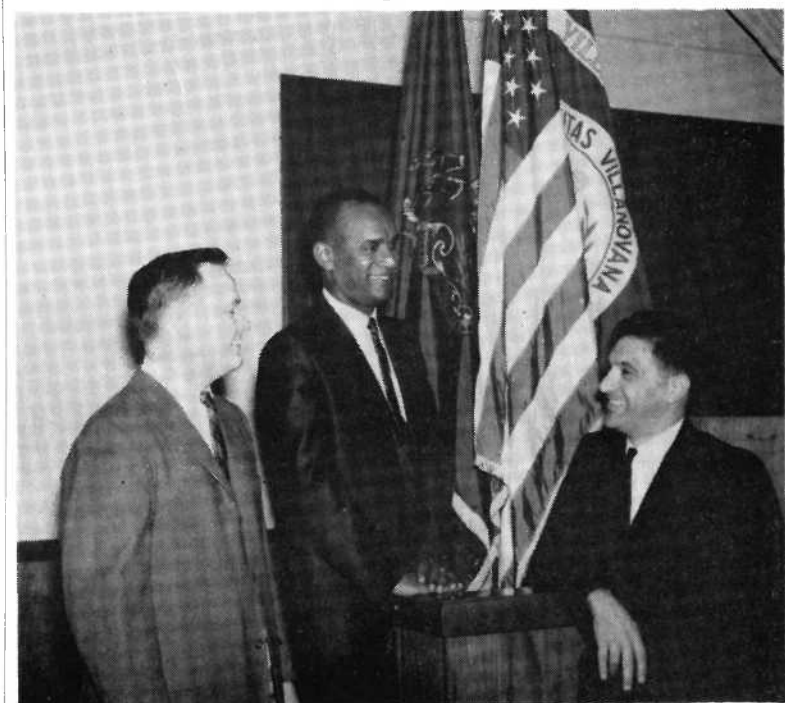
Thomas W. Keegan, '65, writes from Albany, N. Y., that he has been appointed Assistant Corporation Counsel for the City of Albany. He entered private practice at 75 State St., Albany, and has been appointed counsel to the Junior Chamber of Commerce. He also became a home-owner and the father of a beautiful baby girl, Monica.

Captain Bruce A. Irvine, '64, after a tour of duty in Germany with the United States Army, is now back in the United States teaching military law to officer candidates at Aberdeen Proving Grounds, Md.

William T. Gold, '66, has become associated with the firm of Meranze, Katz, Spear and Bielitsky. Their offices are located at 2100 Lewis Tower Building, Philadelphia, Pa.

Joseph D. Bizzano Jr., '65, a member of the Michigan Bar is presently with the Dow Chemical Company, Midland, Michigan. He recently passed the Patent Bar examination and will be admitted before the United States Patent Office in the near future.

American Affairs Club Hears Economic Program Chairman



Shown from left to right at a recent meeting of the American Affairs Discussion Club are Jerry Cox, President of the club; Mr. Jesse Clark, chairman of the Archbishop's Economic Opportunity Program of Philadelphia; and Mr. William A. Valente, Professor at the law school.

The American Affairs Discussion Club of the Villanova Law School has been host to several guest speakers in the last few weeks. This is in keeping with the club's policy of presenting diversified topics and knowledgeable speakers at its bi-weekly meetings.

At its most recent meeting, the club was addressed by Mr. J. A. Livingston, the Financial Editor of The Philadelphia Evening Bulletin. His topic was "The State of the Market." While Livingston felt that, at that time, the general outlook was brighter than it had been, he wondered if the current feeling of optimism was justified.

Vietnam and its effect on the U.S. economy was another area of concern for Livingston. He felt that if we were to win the war in
(Continued on Page 6, Col. 5)

Junior Bar Association Holds Guidance Seminar

A Vocational Guidance Seminar was presented at the Law School by the Pennsylvania Junior Bar Association in October, discussing every role of the lawyer.

Stephen J. Harmelin, an associate of the firm of Dilworth, Paxson, Kalish, Kohn & Dilks, Philadelphia, discussed the role and life of a lawyer in a large firm in a large city.

Alan C. Kauffman, an associate of the firm of Solo, Abrams, Bergman, Trommer & Padova, Lewis Tower Building, Philadelphia, presented the general practice of a lawyer in a small firm in a large city and also served as moderator.

The "lawyer in a corporate legal department" was given by Edwin W. Scott, a member of the legal department, Philadelphia Electric Company, 1000 Chestnut Street.

Malin Van Antwerp, Regional Counsel's Office, Internal Revenue Service, Two Penn Center Plaza, Philadelphia, discussed the work of a lawyer in government service.

Richard L. Cantor, a partner in the firm of Lentz, Cantor & Duffy, 34 East Market Street, West Chester, furnished the students with information on the role and life of a lawyer in a small suburban county.

Representatives

(Continued from Page 1)

Road, Philadelphia, Pa. 19151.

Esther R. Sylvester, Esq., '64, 11th floor, Land Title Building, Philadelphia, Pa. 19110; Patrick C. Campbell, Esq., '65, 207 David Drive, Bryn Mawr, Pa., and J. Edmund Mullin, Esq., '66, 2314 Coles Boulevard, Norristown, Pa.

Alumni Aid Sought

(Continued from Page 1)

public, or so called state related, institutions.

In our present dual system of state and private institutions, private colleges and universities now enroll more than 55 percent of the total student enrollment in the state. While the Plan praises the important role of private colleges in the history of education in Pennsylvania, it is proposed that they no longer play a dominant role. Instead, a dramatic expansion of state related institutions is planned. For example, the Plan estimates that the state's responsibility for operational costs in 1971-72 will be 282 million dollars for state related institutions, and only 27 million dollars for private institutions. The Plan does not answer the question of why the past and present healthy mixture of public and private higher education should not be continued in Pennsylvania.

The Plan proposes a Commonwealth System of Higher Education composed of three segments: community colleges; state colleges; and Commonwealth universities (Penn State, Temple and Pittsburgh). The Plan would give only limited aid to private institutions by means of an increased student scholarship and loan program; partial grants for construction; subsidies for graduate education; and fellowships for future college

teachers.

Of course, scholarship funds constitute aid to individuals and not to institutions, inasmuch as tuition does not cover the actual cost of educating a student. Also, this does not aid only students at private institutions, since the scholarship funds can also be used at state aided schools. And, if the student uses the scholarship funds at a state aided institution, in effect there is a double subsidy because of the lower tuition already made possible at the state supported school by public grants.

For example, the tuition in the liberal arts college at Villanova University is X + Y dollars, but only X dollars at Temple University. Thus, as a practical matter, scholarship funds in most cases will not preserve a student's freedom of choice between state related and private colleges, as economic conditions will frequently dictate that a student use his scholarship funds at the school with the lower tuition, thereby reducing the amount of his personal outlay.

A state fellowship program to develop future college teachers is proposed by the Plan. However, the fellowships would carry whole tuition at any school in the Commonwealth System, but only one-half tuition at any private institution. The tendency for fellows to favor state related schools would
(Continued on Page 6, Col. 1)

Social-Light

Our esteemed alumni are making sure that Villanova Law School will have plenty of applicants in the future. Vince Halley, '59, who has already been fortunate enough to have six beautiful children, was blessed with a seventh on Sunday, October 23, 1966. His lovely wife gave birth to 8 lb., 10 oz. Regina.

The odds are fairly certain that at least one child in William J. Goebelbeckers' family will take up the practice of law. The birth of his fourth child and fourth son, James Peter, on July 1, 1966, certainly ups his percentages. Mr. Goebelbecker, '58, is associated with Charles Pfizer and Co., Inc., in New York City.

Joseph A. Tate, '66, thinks all is "just" and is simply elated with the birth of his son, Joseph Anthony, Jr., on August 5, 1966. As you might have guessed, Mr. Tate works for the Department of Justice, antitrust division, Washington, D. C.

Lawrence Grossman, '65, is ecstatic over the birth of his darling daughter, Joyce Renee, on June 11, 1966. Mother and daughter are both well and happy. Mr. Gross-

man is associated with Milton, Keane, and De Bona.

All the "law wives" will breathe more easily now. At their last meeting on October 27th, Marilyn C. Toole, wife of Edward C. Toole, Jr., '67, and president of the Barristers' Brides, was almost due to have her second child. Eight lb. two oz. Edward Charles III was born on November 3rd, at Bryn Mawr Hospital. Perfect timing and a perfect family of four now.

With all mentioned thus far, it may seem that Villanova is having a baby boom. Here is one lone marriage to announce. Mark Udren, '67, wed Karen Gold. His charming bride works in the field of advertising research. After a wonderful honeymoon in Jamaica, the happy couple resides in center city, Philadelphia.

Our real neophyte into the love and marriage progression is James J. McNamee. His fiancée is Carol Anne Clarkin of Philadelphia. Miss Clarkin is a school teacher. Thirteen will be their lucky number as they become man and wife on May 13, 1967.

Ives-Cardoza Is Number One In Football

Once again there is quiet on the football fields surrounding Garey Hall, for another interclub football season has drawn to a close with Ives-Cardoza Law Club as league champions.

Under the new club system, the championship was determined by combining the records of the two teams which each law club entered into the league and awarding two points per win and one point per tie. This year the championship was not determined until the final week of play, with Ives-Cardoza edging out Warren-Stern Law Club by one point in the final standings.

The final outcome, as announced by athletic chairman Ray Letulle, was Ives-Cardoza A with a record of 3-2-1, combining with their B team's 3-1-2 record for a total of fifteen points. Warren-Stern Law Club finished second with their A team at 2-3-1 and their B team recording 4-1-1 for a total of fourteen points.

The Hughes-White Law Club finished third with their A team having a 3-2-1 record and their B team winding up with 2-4, for a total of eleven points. Last, but not least, Tancy-More Law Club ended their season with the A team contributing 2-3-1 and the B team with 1-4-1 for a total of eight points.

Remarking on the football league Ed Murphy, interclub council president, stated that the league was very successful and had a large student participation. He stressed that the strong rivalry and enthusiastic competition between the law clubs led to the standings being very close. He also disclosed that plans are presently being formulated by the Interclub Council for a basketball league and a tennis tournament.

From the Dean's Desk

(Continued from Page 2)

The law alumni of the Washington-Baltimore area gathered for dinner at the Cosmos Club in Washington. This is a first. A bit later we hope to gather together the New York City area alumni.

The Annual Coif Lecture was delivered by Dr. Robert Strausz-Hupe, Director of the Foreign Policy Research Institute at the University of Pennsylvania. His talk was entitled "Strategy and the Political Imagination."

Members of the Villanova Chapter of the Order of the Coif gathered for the Annual Coif dinner preceding the lecture. Members of the class of 1966 elected to the Coif were inducted and honorary membership was conferred upon the Honorable William Duffy, Chancellor of the State of Delaware and Chairman of the Law School's Board of Consultants.

On December 19 we will have the annual alumni Christmas party at Garey Hall.

Looking to the future, the final argument in the Reimel Appellate Moot Court competition has been set for Saturday, April 1. Happily, Mr. Justice White of the Supreme Court of the United States expects to be with us as Chief Justice.

I am happy to report that we have moved into meaningful activity looking forward to construction of Law School residence facilities in the very near future.

By the way, organized alumni activity is wonderful, but what we enjoy more than all else is your individual visits to Garey Hall. Come on out!

University Holds Convocation

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ceremony, Gardner was presented with an Honorary Doctor of Laws Degree.

After receiving his degree, Gardner gave a brief speech which emphasized the expanding role of his department, and of the various welfare agencies throughout the nation. He stated that through their combined efforts, higher education is becoming available to greater numbers of people, many of whom would have been denied such an opportunity in the past because of physical impediments or financial need. This shows, he said, that the goal of quality mass education is rapidly becoming a reality. Following his speech, Gardner assisted in the presentation of the faculty awards, which numbered 23 this year.

VILLANOVA LAW SCHOOL ALUMNI
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UKRAINIAN DEAN RELATES RUSSIAN LEGAL TRAINING

By Marilyn F. Fullerton, '68

Villanova Law School was recently visited by Vladimir Sokorenko, Dean of the Law School at the University of L'Vov in the Ukraine.

While most of the dean's work is administrative, he is also in charge of a chair of the theory and history of state law and teaches the general theory of law and jurisprudence at the University.

Professor J. E. Collins, of Villanova Law School, arranged to have him visit Villanova to observe the methods followed in teaching law in the United States. The dean was also willing to explain about the law field in the Soviet Union.

There are four law schools in the Ukraine with a system similar to our concept of departments in a university. There are 54 permanent faculty members under the dean.

The students come directly to the law school from the gymnasium, which is a secondary school preparing the students for the university. Therefore, in the law school, some general instruction is in the areas of history, philosophy, foreign languages, and political economy. The course lasts five years.

The student is usually about eighteen when he comes to study law. He is selected for the law school if he successfully passes the entrance examination, which is directed specifically to the subject of law. The student must write a composition on a given theme and must pass two oral examinations on the law.

Recent Graduates Present Seminar On Law Profession

Recent graduates of Villanova School of Law participated in a seminar supplementing the vocational guidance seminar presented by the Pennsylvania Junior Bar Assn.

Viewpoints and comments on the legal profession were given by the alumni.

The alumni participants were:

Robert J. Bray Jr., '62, an Assistant City Solicitor in Philadelphia, and formerly an associate with the firm of Morgan, Lewis and Bockius, Philadelphia; Robert J. Jackson, '63, a member of the legal department of Gulf Oil Corporation; Lawrence McAlee, '62, a member of the legal staff of the Department of Housing and Urban Development, Philadelphia; Robert L. Pinto, '62, of the firm of Kassab, Cherry and Kurran, Chester, and John B. Talierco, '63, of the firm of Stively and Talierco, Downingtown.

Students' Wives Hear Decorator

Mrs. Polly Riggs, a prominent Main Line interior decorator, spoke at a meeting of the Barristers' Brides Club on the importance of color in the home. She illustrated various color techniques with fabric and rug samples which she brought with her.

During the business meeting, Ann Kolshorn was elected historian. In this capacity, Ann will permanently record all this year's events and activities.

Approximately one out of every 13 students will be admitted to the first year for day school, the first year class numbering about 120 students. In the evening school, there is less competition and one out of every five will usually be admitted. Total enrollment is about 500 in the day school, 150 in the night school and 2,000 correspondence students.

The students may come from as far away as 10,000 kilometers (6,000 miles). They live in dormitories paying a charge of about four or five rubles for six months.

Theory and Practice

There are two related parts to the study of law in the Soviet Union. They are theory and practice.

There are required courses including history and languages plus courses on the general theories of law and state. The students study state law, of which constitutional law is only a part, and public law.

Other specific courses include international private law, comparative law on the problem of punishment in criminal law, torts, psychology relating to criminal law, and psychology of witnesses.

The first two years, the classes are very large and are held in auditoriums. In these classes the professor usually lectures and then allows about fifteen minutes for questions at the end of a two hour period. There is also a fifteen minute break during the two hours.

In the last three years, there are many specialized courses and seminars. In these, the number of students is limited to 25 persons. All students actively participate in these seminars and discussion is permitted. The practice is combined with theory at the end of the second year and before graduation a student must practice from eighteen to twenty-six weeks. He is paid a stipend for his services.

Commission Reviews

After law school all successful students obtain government positions. The students at the top of the class are given first choice at possible openings. Each student goes before a commission usually consisting of the Rector of the University and other faculty members. This commission is set up through the Administration for Higher Education which directs the distribution of young specialists into necessary areas.

After talking with the student, various positions are offered to him. Of course, the students with lower grades and rank have fewer choices.

The student may elect not to go to his position if circumstances have changed for him. However, he must inform the commission in a written form of his reasons so that they may obtain a substitute. If his reasons are justifiable, such as a health problem, he may be of-

fered another position, otherwise he will look for a job on his own.

There are only government institutions and common organizations possible as there are no private firms. Students may also be appointed to the University to become professors. If so, they will not practice law although they may consult upper courts.

Faculty Elects

These students have also completed post graduate dissertations for master and sometimes doctor of law degrees. They are elected by the faculty for five years, and if found unsatisfactory they usually leave by their own choice. However, the dean has never heard of any dismissals after the five year period. The faculty are re-elected every five years. Just as the faculty is elected so is the dean, and Dean Sokorenko is presently serving his second four year term as dean.

The law profession itself is also very interesting in the Ukraine. In disputes with the administrative arm of the government, the problem is settled by government arbitration as an economic dispute rather than being settled by the courts.

An individual may bring private action by presenting a complaint. The lawyers will be appointed by the government, but the party may elect to defend himself or to select another lawyer. If he selects another lawyer, he must pay him, otherwise the government pays the lawyer.

In criminal cases, both sides are represented by lawyers appointed by the government, at its expense, and the lawyer must be accepted.

There is no general principle of Habeas Corpus because the officials of the government must follow strict regulations set up in the law itself. These requirements include what persons may make an arrest; the procedure to be followed when making an arrest; the detention of the suspect; the examination of the suspect which must be done within a short time; and the necessity of release, if no substantial grounds for arrest are found.

Individual Rights

All of this is part of the law and cannot be broken by the officials; so there can be no abuse of the rights of the individual by the officials, and therefore no need of a right of action against the government.

It is interesting to compare the law and its procedures between the two countries and it was unfortunate that Dean Sokorenko was not able to stay longer, so that with the help of Leonid A. Dobrinin, his interpreter, Villanova might have been able to learn more about the differences in the law between the two countries.

Judgment on the Merits

By Michael M. Goss

IRC CHANGE SOUGHT FOR EDUCATIONAL PURSUITS

Special thanks are given to LEE SILVERSTEIN who helped research and write the following—M.M.G.

Section 162 of the Internal Revenue Code of 1954 provides that "there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business . . ." However, only those expenses incurred in a present trade or business are deductible. Frank v. Commissioner, 20 T.C. 511 (1953).

Educational expenses are deductible under this section if they are ordinary and necessary expenses of the taxpayer's present trade or business. This means they are deductible if spent to "keep sharp the tools he actually used in his going trade or business." Coughlin v. Commissioner, 203 F.2d 307 (2d Cir. 1953). Expenses incurred to advance present job status or to enter a new profession do not meet this requirement. Those incurred by the taxpayer in order to meet the minimum requirements of qualification or establishment in his intended employment, trade or business, likewise do not meet this requirement. Reg. §1.162-5(b).

The Treasury Regulations have established a test as to deductibility. The expenses are ordinary and necessary if primarily for the purpose of maintaining or improving skills required by the taxpayer in his employment or other trade or business. They also meet this qualification if they are incurred to meet the express requirements of his employer, or of applicable law or regulations imposed as a condition to the retention by the taxpayer of his salary, status or employment. The first test of maintaining skills required in his employment is determined by the custom of other established members of his trade or business. Reg. 1.162-5(a). Expenditures for education to meet the initial minimum educational requirements of employment are not deductible, however.

There are numerous examples of expenses deemed to be for education, to improve one's position and which are therefore non-deductible:

- an industrial engineer's going to school at night for administrative engineering
- a psychiatrist's training to become a psychoanalyst
- a doctor's going to school to become a specialist rather than a GP

There are numerous examples of expenses deemed for education to sharpen one's tools at his present position and which are therefore deductible:

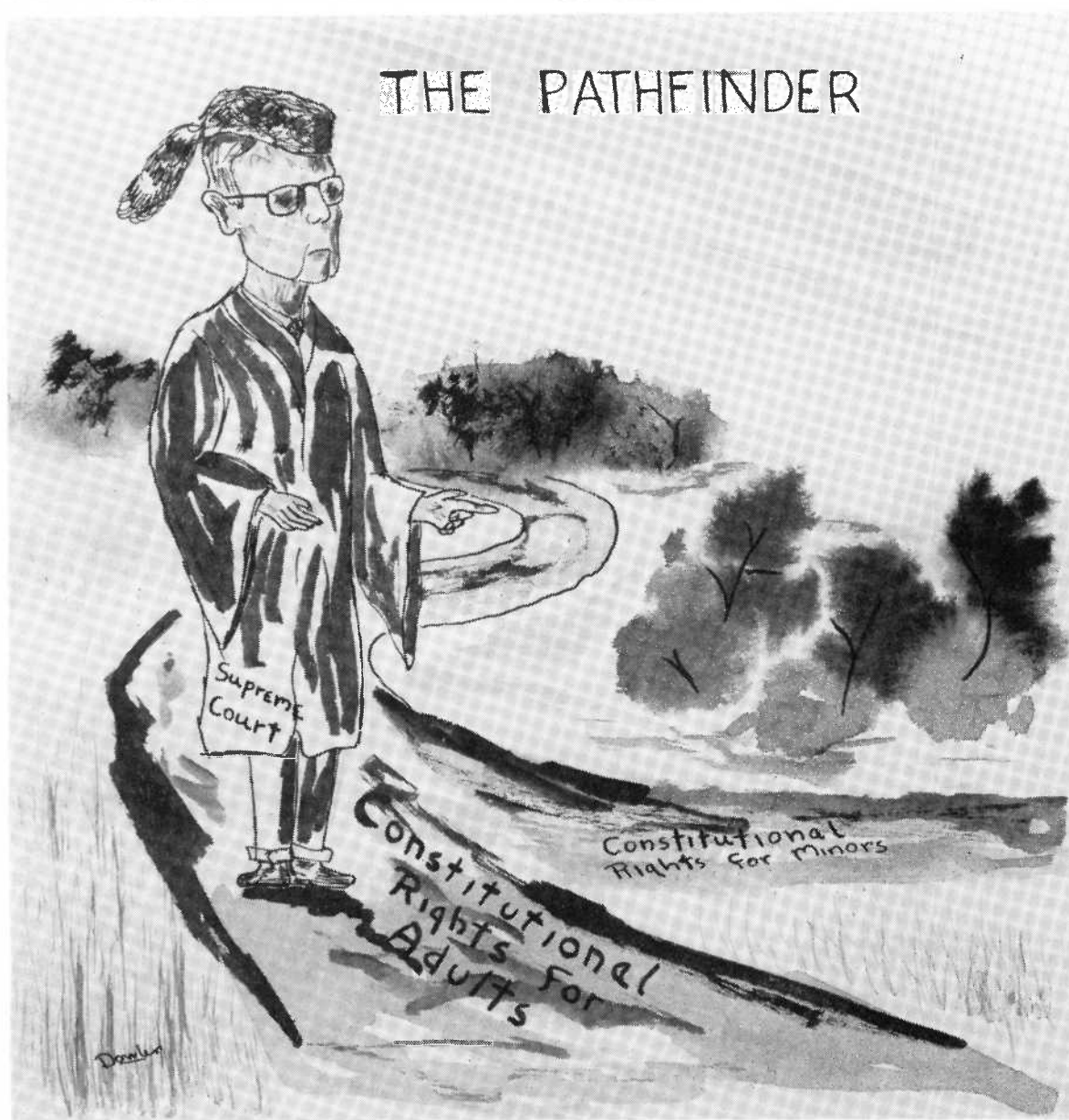
- a lawyer who does tax work in his firm attending a tax seminar to keep abreast of the latest developments
- a CPA's going to law school to help him become a more proficient one
- a claims adjuster's going to law school to aid him when negotiating with lawyers

The inequity of the present law is in not allowing any deduction for expenses made to help the taxpayer reach a higher plateau. Such an expense is deemed a capital expenditure, which is an outlay of money, the benefit of which will be realized over a period of years. Though such an expenditure is a capital expenditure in fact it is not permitted the deduction permitted a capital expenditure. If the taxpayer bought a machine, the benefit of which was to be realized over a period of years, he could recoup his investment over the useful life of the asset by depreciation. Unlike this capital investment, investment for education cannot be depreciated or recouped.

The writers of this article feel that this is a major defect in the present tax structure, since its effect is to discourage people from educating and bettering themselves and thereby their country. The education policy of our government, as expressed through the taxing system, should be to foster higher education. This is especially important today with the high cost of education and societal pressures to improve one's position in life.

We suggest three possible methods to cure this inequity. The first and most strongly favored is to treat the educational outlay as a capital expenditure and amortize it. We recognize the difficulty in estimating the useful life over which to amortize this amount. However, there are other capital expenditures which are amortized despite this problem in ascertaining the useful life. For example, Section 248 of the Internal

(Continued on Page 6, Col. 1)



Elliott Tolan and Robert W. Dowler

STUDENT'S VIEWS:

RECALLS 'KENNEDY ERA'

By Ronald Martin Kubiak

This is the fourth November—yes, the end of the third year; on November 22, 1963, the President of the United States was assassinated. Many Americans paused for a few moments during the latter part of this month to remember John Fitzgerald Kennedy. Some might say that with the death of Kennedy, this country lost only a man. Others might view his death as not being the loss of a great American, but rather, the disappearance of the dedicated American. Today, this country searches for some guiding principles—some national purpose as Kennedy had instilled.

One need not say that he agrees with all that Kennedy did, nor need he say that he disagrees with Kennedy's desire for a better tomorrow. Most men would acknowledge that his belief and hope for a dedicated country was brought forth in language which was touched with brilliance, courage, and vigor. Such extraordinary persuasion repeatedly showed his fellow Americans how important it was for them to realize their country's past triumphs, to work for its present success, to establish goals for its future development and to strive to make those proposed achievements a reality.

On January 11, 1962, Kennedy delivered his State of the Union Message to the Joint Session of the House and Senate; the fourth paragraph contained the following statement:

"... (P)eople everywhere, in spite of occasional disappointments, look to us—not

to our wealth or power, but to the splendor of our ideals. For our nation is commissioned by history to be either an observer of freedom's failure or the cause of its success. Our overriding obligation in the months ahead is to fulfill the world's hopes by fulfilling our own faith."

Kennedy's theme here, as found elsewhere in his many speeches, is the tremendous prayer of hope and faith—hope for tomorrow with faith in today. As we look at the present international situation, we find that the several powers have lost hope in America because Americans have lost faith in themselves and in their country; they have faltered in their "overriding obligation."

Yet, this was not always so. Kennedy vitalized the American spirit and set high goals in which Americans became rejuvenated as if bathed in a mystic, miraculous concoction. With high ideals that brought faith in the present and hope for the future, Americans were confident in adversity and secure during confrontations by antagonistic powers. The national spirit was highly optimistic, for tomorrow was viewed as a better today. Consequently, the world's hope in America appeared to be fulfilled during that era—the Kennedy days.

With his death and the passage of time, Americans lost the desire for a "Time for Greatness." Without this man, this unique American, the mood in America oscillated from one of optimism to one of pessimistic uncertainty.

Without Kennedy, America has lost the excitement for living and

has suffered with frustration and insecurity. Such a national uncertainty can be viewed as the direct result of an individual indifference and a personal lack of motivation. In order to have motivation, man must have goals or ideals, whether these are in the realm of reality or the absolute. As an American, he must establish ideals so that his faith in this country will bear fruit and accomplishment. When a man consciously fails to set goals for his personal acts, then that man accepts the responsibility and suffers any consequences; when Americans fail to establish ideals toward which they can focus their national dedication, then that nation fails to achieve the rewards or merits.

With Kennedy there were goals and there were ideals; and, most Americans dedicated themselves towards fulfillment of those ideals. Without Kennedy it appears as if there are no goals worth attaining and no new frontiers worth conquering. Now that Kennedy is no longer with them, many Americans improperly fail to distinguish the man from the message.

Kennedy did not base his plan for a better tomorrow on a message which would be dependent upon him for its fulfillment. Rather, the "New Frontier" which Kennedy wished to attain for America was simply an introspection in which each American would see or recognize his role as an American. The "New Frontier" was not intended by Kennedy to involve new lands or new continents. The new frontier was the American him-

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Non Obstante Veredicto

By Douglas E. Friedman

ALCOHOLICS—CRUEL AND UNUSUAL PUNISHMENT

A short time ago the United States Supreme Court denied certiorari in the case of **Budd v. California**, 35 U.S.L. Week 3139 (1966). The petitioner in that case was seeking a review of the denial by the California Supreme Court of his attempt to obtain a writ of habeas corpus. Budd had been convicted in a criminal proceeding under the state penal code for public drunkenness.

Budd, 56, had been arrested approximately 40 times for drunkenness. In his trial there was expert testimony which established that he is an "alcoholic" and not just a drunk. Yet, despite this record, he was still adjudged a criminal.

Mr. Justice Fortas dissented from the denial of certiorari and Mr. Justice Douglas joined in the dissent. They wanted the Court to decide the question of whether the treatment of an alcoholic as a criminal is cruel and unusual punishment and therefore prohibited by the Eighth Amendment.

Robinson v. California, 370 U.S. 660 (1962), involved a criminal conviction for the crime of being a narcotics addict. The Court held that it was cruel and unusual punishment to convict someone for such a crime. The reason for the decision was that narcotics addiction is a sickness and the fact that the addict has no volition over his acts makes it impossible for such acts to be considered criminal consistent with the Eighth Amendment.

Two circuit courts have recently considered the problem of alcoholics and the Eighth Amendment in light of the **Robinson** case. In **Driver v. Hinnant**, 356 F.2d 761 (4th Cir. 1966), it was held that an alcoholic could not be constitutionally convicted and sentenced for public drunkenness. The court cited **Robinson** and applied analogous reasoning in deciding that since the defendant's acts were not of his volition that it would be cruel and unusual punishment to treat him as a criminal.

Citing both **Robinson** and **Driver**, the court in **Easter v. District of Columbia**, 361 F.2d 50 (D.C. Cir. 1966), overturned a conviction for public intoxication. **Easter** had, however, an additional factor involved. Under the D.C. Code, Section 24-501 (1961 ed.), a court is empowered to take judicial notice of the fact that an alcoholic is a sick person and the court may direct that the defendant receive the appropriate medical, psychiatric or other treatment. With this statutory recognition of alcoholism as a sickness it was unnecessary for the **Easter** court to rely on the Eighth Amendment but it nonetheless did make such an argument in support of its decision. The fact that the defendant began his drinking originally by choice was irrelevant. They said that a sick person is still sick even though he may have exposed himself to the illness.

Why then, in the fact of **Robinson**, did the Court refuse to grant certiorari in the seemingly analogous situation presented by **Budd**? One possibility is the procedural difficulties that were involved. Rather than appealing his conviction directly, Budd attempted to get released on a writ of habeas corpus. However, Mr. Justice Fortas stated that since the California Supreme Court had the power to review the denial of the writ, so then did the Supreme Court of the United States even though the conviction was not directly appealed all the way through the California courts.

Are there any real differences between the alcoholic and the addict which would dictate a different result in a case involving an alcoholic than that reached in **Robinson**? It would seem not. In both instances, after the initial period of introduction, the party loses control of his ability to accept or reject the drug or drink. In the case of the alcoholic this period will be longer, but the end result is the same and that is what we are concerned with—the defendant's condition at the time of trial and not how long it took him to acquire that condition. It is hoped that before long the Court will decide this issue and that it will be decided that treatment of alcoholics as criminals is indeed cruel and unusual punishment.

In his **Robinson** concurrence Mr. Justice Douglas recalls the treatment of the mentally ill before the great reforms in that field. One of the favorite remedies for mental illness was to whip the patient until he had regained his reason. The Justice's comments bring to mind the possibility that before long the **Robinson** line of reasoning may be applied to cases in which the defendant is mentally ill (medically) but

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Judgment on the Merits

(Continued from Page 4)

Revenue Code of 1954 treats the amount spent for organizing a corporation as a deferred expense and allows a deduction ratably over a period of not less than 60 months. A provision analogous to Section 248 would be a reasonable way of resolving this difficult situation.

Another possibility is to enact an exception to Section 162 of the Internal Revenue Code of 1954 and allow a deduction for education expenditures incurred for a future trade or business. However, this would principally benefit people presently employed and would be of little value to people not employed as they would have no income from which to deduct the cost. Since the single student employed for the summer has little income, it would be of nominal value to him. Possibly, this inequity could be handled by permitting the one entitled to a dependency deduction for the student (usually his parents) to take the educational expense deduction.

The last alternative would be a new, liberalized Treasury Regulation recognizing that at least at the professional school level a student has already entered a trade or business and is immediately entitled to a Section 162 deduction. This alternative, also, would mainly benefit those presently employed.

In summary, we feel there is a necessity created by modern educational demands to change the existing tax law and allow broader education deductions.

Correction:

The statute in this column last time should have read—

"... no license to marry shall be issued by any clerk of the orphan's court to a person divorced by his or her former spouse on the grounds of adultery, for the marriage of such person to the person with whom the crime of adultery was committed, during the lifetime of the former husband or wife." 48 P. S. 1-5h (1953).

Alumni Aid Sought

(Continued from Page 2)

be obvious.

The Plan's proposals for extensive aid to state related schools, with no effective assistance to private schools, must result in increased competition between the two systems for faculties, students and physical plants. Only the schools in the Commonwealth System are sure to have the funds necessary to survive the competition.

The students, alumni and friends of private schools throughout the Commonwealth must take an active interest in supporting changes in the Master Plan which will recognize and continue the important

position of private education as a part of the dual system of higher education in Pennsylvania, and they should make their views known to their representatives in Harrisburg.

This article has touched upon some of the inequities which would fall upon private institutions, whether church related, like Villanova; or non-church related, like Drexel Institute of Technology in Philadelphia, if the present Master Plan is implemented by the legislature. The Law Alumni Association intends to mail to its members further information concerning the Plan and affirmative proposals to improve the Plan.

RED MASS CELEBRATED IN UNIVERSITY CHAPEL

(Continued from Page 1)



Shown with Dean Harold Gill Reuschlein are the guests of honor of the reception held at the law school following the Red Mass. From left to right are: the Very Reverend Vernon F. Gallagher, C.S.Sp.; the Very Reverend Joseph A. Flaherty, O.S.A.; the Most Reverend Gerald V. McDevitt, V.G.; Dean Reuschlein; and the Reverend John M. Driscoll, O.S.A.

the law?" becomes a very decisive factor.

Father Gallagher then asked, "How will we answer that question?" Will we merely reflect in our answers the fads of the period, which seem to emphasize a de-personalized and almost non-existent God; or will we answer with courage and strength, and accept the challenge by preserving our traditional values and beliefs. The choice is ours; and our answer will be determined not by what we, as lawyers, say, but by what we, as lawyers, do.

At the conclusion of the Mass, the celebrants returned to the law school as the guests of honor at a reception which was attended by the faculty, alumni, Board of Trustees, and friends of the Dean.

RECALLS 'KENNEDY ERA'

(Continued from Page 5)

self; for, man has no new worlds to discover except himself.

Kennedy gave many Americans the thirst to look at themselves and to find their place in a nation. Each American can assert a tremendous influence and effect upon the future course of his country. If he is an American who appreciates the principles of democracy, then that influence will be in the defense of freedom. If he is really concerned "of where" his country is going, he will establish the highest goals as sites to attain. Thus Kennedy's "New Frontier" was envisioned as a Nation of enlightened Americans who were proud of what they represented and excited by what they hoped to become. But it should be stressed that Kennedy would not have wished that the enlightened American depend on another man for his inspiration rather than upon the contents of the message offered.

Kennedy's words should be given greater emphasis, not as historical epilogue, but as a living reminder, a constant reminder, of the better tomorrow which will surely be "a time for greatness." The ideals and goals that he held so ardently should not die merely because he

has died; those beliefs should not fail merely because we have failed to carry on without him. He is not here to inspire us, but his words can guide us along the dark paths of national uncertainty, frustration, and insecurity.

Let the eternal light at his grave be our pharos—a beacon, symbolic of the efforts expended for the protection or promotion of the American principles of unity, justice, domestic tranquility, the common defense, the general welfare, liberty, and Constitutionalism. If we shall but defend those ideals, that light shall shine brightly. As Kennedy stated in his Inaugural Address on January 20, 1961:

"The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it, and the glow from that fire can truly light the world."

Assuredly, to defend these ideals requires a dedicated America, a nation of Americans who truly recognize their present and future roles as enlightened Americans. As such, they will gladly accept the burdens of the defense of those ideals in order to achieve the benefits which those ideals bestow. And those benefits will result in a better tomorrow; it is inevitable.

Non Obstante Veredicto

(Continued from Page 5)

does not meet the restrictive tests (legal) for mental illness of the state in which his case is tried. If this were to happen, it would finally signal an end to the long criticized M'Naghten Rule and other similar deficient tests.

Vietnam, it would be of no great benefit to the economy. Unlike the situation during World War II, we are presently operating much closer to capacity; and there is no great unfulfilled demand for consumer products. In World War II, our entire economy was geared for war. In our present situation, the war has not cut consumer production, nor has it caused demand to slacken. Yet, perhaps even more significant will be the effects of a long, drawn-out conflict which will increase the velocity of the present drain on the economy.

Interspersed with humor and lucid answers to questions, Livingston also discussed areas such as the gold flow, West Germany, the Common Market, and increased competition.

Mr. Jesse Clark, chairman of the Archbishop's Economic Opportunity Program of Philadelphia, was the guest speaker at a previous club meeting. Mr. Clark was here to take a "Look at the Great Society in Philadelphia." He is most interested in P.A.C. (Philadelphia Anti-Poverty Council), which is concerned with programs designed to overcome poverty.

One of the early flaws in the "Great Society" program, said Clark, was poor publicity and faulty introduction into the milieu of the poor. The people that the program was designed to help had notions that semi-magically, in six months time, they would no longer be poor. For them, the Great Society "pill" was to be an instant cure-all.

This disastrous beginning, and the consequences which followed have been adjusted; and now that the programs and their goals are better understood, the people are returning with renewed confidence and hope.

The basic idea of the program is one of self-help. Organizations such as Job Corps and N.Y.C. (Neighborhood Youth Corps) attempt to get the poor to do something for themselves, to develop some interest and motivation. It is well beyond mere relief. They focus on finding work or creating jobs which, with some training, can be easily mastered. In this way, the goals of making the poor and jobless feel that they are needed, wanted and understood are achieved.

The major problem in this area is lack of funds. There are now 86 agencies in the Philadelphia area seeking funds for the program.

Season's Greetings
from the Docket

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CALENDAR of EVENTS

UPCOMING EVENTS

December

2—Friday — Law Forum, Dr. Paul E. Sigmund will speak on "The Ideologies of Developing Nations," 8:30 p.m., Garey Hall.

17—Saturday — Alumni Christmas Party, 9 p.m., Garey Hall.

February

2—Thursday — Law Forum, The Honorable Joseph D. Tydings will speak on "The National Judicial Relief Act," 8:30 p.m., Garey Hall.