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ATTORNEY GENERAL TO SPEAK AT COMMENCEMENT

Villanova University has announced that the Hon. Ramsey Clark, Attorney General of the United States, has tentatively agreed to be the commencement speaker for the 125th Anniversary of Villanova University. The University is presently awaiting final confirmation from him.

The commencement exercises for the Villanova Law School Class of 1968 will be held on Monday May 13, 1968, at 3 P.M. at the Philadelphia Civic Center. The graduating class is the largest in the law school's history, with over 120 graduates.

Baccalaureate Mass will be sung in the Field House on Monday morning, May 13, at 10 A.M.

In conjunction with graduation, Class Day will be held on Sunday afternoon, May 12, at the Law School. The graduates who are named to the Order of the Gown will be announced and prizes will be awarded for academic excellence. Student leaders in law school activities will be cited and honored. The Class of 1968 will then present their class gift to the University.

Following the ceremony, tea will be served in the lounge and on the terrace, affording the students' guests an opportunity to meet and talk with the faculty on an informal basis.
and is subsequently sentenced during a revocation of probation hearing to a term of confinement, must be afforded counsel at such a hearing. The Supreme Court of Washington held there was no necessity to provide counsel in this type of proceeding on the ground that the sentencing under the statute, found that the actual term served would be determined by the State Parole Board, which in turn relied heavily on recommendations made by the trial judge. Furthermore, an appeal in a case where a plea of guilty had been entered and probation followed could only be filed at a revocation of probation hearing and a plea of guilty could be withdrawn until sentences are imposed at such hearing. This led the Court to conclude that more than "mere formality" was involved and the need for counsel in "marshaling the facts, introducing evidence of mitigating circumstances and in general aiding an accused defendant to present his case as to sentence is apparent."

And, with respect to the right of appeal or withdrawal of a guilty plea:

"An unaccused defendant might very well be unaware of this opportunity."

Dicta in the Mempa decision points out the strong need for counsel in sentencing procedure. The Court cites with approval lower federal court decisions which have held that the Sixth Amendment does provide for the right to an attorney at sentencing in federal cases and Townsend v. Burke, 334 U.S. 736 (1948) (where it was held that a defendant would receive a fair and impartial trial if he was denied due process when sentenced in the absence of counsel and where the judge relied on a criminal record which was erroneous) which "illustrates the critical nature of sentencing in a criminal case and might well be considered to support by itself a holding that the right to counsel applies at sentencing."

Yet, the Supreme Court did not choose to make Mempa the vehicle for deciding that a convicted person must have counsel at all sentencing proceedings. "All we decide here is that a lawyer must be afforded at this proceeding whether it be an initial revocation of prosecution or a deferred sentencing." This narrow holding may have been predicated on the basis that the Court did not feel the fact situation lent itself to a holding that a defendant at every stage of the criminal proceeding was denied due process when sentenced in the absence of counsel and where the judge relied on a criminal record which was erroneous.

Strictly enforced to insure such a hearing meets a standard of fair and impartial".

WHERE TO—INTRODUCTION OF COUNSEL AT SENTENCING PROCEEDINGS AS A MATTER OF RIGHT AND A REVIEW OF THE PROSECUTION SAFEGUARDS AFFORDED THE INDIVIDUAL AT THIS STAGE OF THE CRIMINAL PROCEEDINGS

ALUMNI DINNER TO BE HELD

MARCH, 1968

Conrad (Connie) J. De Santis, '65, who is currently with the firm of Schmidt, Harrison, Segal & Lewis is chairman of this year's Annual Alumni Dinner Committee. He noted that the date for this major alumni social function will be Friday, April 26. It will be held at Williamson's Atop the Barclay which is located on City Line Ave.

The featured speaker for the evening will be the guest speaker, Mr. Bernard G. Segal, Esq. Comments will be given by the President of the Villanova University Alumni Association, Mr. James J. Buoncristiani, '62. A program of music will be presented by the Villanova Glee Club and the Villanova Male Quartet.

DOWD MODERATES SYMPOSIUM

The Fourth Annual Law Review Symposium, moderated by Professor Donald W. Dowd, will be held Friday, April 19, at the Law School. The subject of the discussion is: "Elements of Due Process—Legal, Medical, and Legal and Ethical Propositions of the Art of Dying." The essence of the discussion will be a contemporary polemic on organ transplants and their multi-faced implications.

Distinguished guests on the panel will include: William J. Carman, recent Director of the Law-Medicine Institute Research Institute at Boston University, and presently visiting professor of Law, Harvard Medical School; Emil Z. Berman, Esq., of the New York Bar; Doctor William H. Likoff, Chief of Cardiology, Rahamah Medical College, and President of the American College of Cardiology; Doctor J. R. Berman, Professor of Medicine, University of Pennsylvania, editor of "Annals of Internal Medicine" and an expert on the theme of "Assisted Living." Dr. A. A. Wasmans, visiting lecturer at the Episcopal Theological School, will moderate the panel.

Procedure will involve an afternoon meeting composed of participating and a selected audience at 3:00 p.m. at which time the participants' papers will be distributed and discussed. It will be followed by the evening forum discussion and a question and answer period.

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ANNUAL DINNER DANCE

The Annual Dinner Dance fulfilled the high expectations of those who attended the zenith of the Law School's social calendar at the Alpine Inn. Upon arriving, faculty and students were greeted by the pleasant surprise of ample parking in close proximity to the festivities. The facilities were spacious with a pleasant decor and were supplemented by an adequate and efficient staff. Two bars were open during the cocktail hour and after dinner, one in a barroom adjacent to the banquet room and one in the banquet room proper, thus permitting natural dispersion of revelers throughout the space provided.

The head table was positioned at a far corner of the room from which the stage of blue décor on the far wall could be viewed. A stairway bordered by a white curtain, which was closed off from the middle of the stage and diverged toward the walls of the plateau as its ascent was accentuated. A grand piano dominated the stage floor from which Nick Ruben's band emitted contemporary musical lights. Subsequent to Dean Bruch's toast for the speakers to talk for about a half hour followed by a question and answer session, the two bars practice were treated as opposed to the establishment of law which the student is primarily exposed to at law school.

FORMER CLS OFFICIAL TALKS ON LEGAL AID TO JUVENILE POOR by DENNIS COYNE

Mrs. Lois Forer, former atto- rney of the Philadelphia Legal Aid Society, spoke to the students of the Law School on Tuesday, Feb. 26, at the invitation of the American Affairs Discussion Club. She spoke on legal assistance to the poor, especially counsel for indigent juveniles.

Mrs. Forer herself organized the legal aid office of the Philadelphia Legal Aid Society in 1943. In the following years, the office grew to the point where the Legal Aid Society was the largest provider of legal aid to the poor in the United States.

Mrs. Forer made the case for the importance of legal aid to the poor, especially to children. She discussed the need for legal aid to ensure that children are treated fairly in the legal system.

In response to a question from a student, Mrs. Forer said that doing what effective legal representation could ever be rendered by a public agency. First, it is difficult for a public agency to fully criticize another agency, much less be suit against it. Second, a public agency would not allow a choice of representation to the indigent client. If he did not approve of the representation he was receiving, he would not be able to obtain different counsel — an opportunity that a paying client has.

Forer made for additional funds to finance the work of the office, denied. Realizing that under the circumstances no effective representation could be rendered to C.L.S. clients, Mrs. Forer resigned.

One of the burning questions in the field of criminal procedure today is whether the case of Douglas v. California, 372 U.S. 353, 83 S. Ct. 814 (1963) should be extended. The landmark holding of Douglas was that if a state has created mandatory avenues of direct appeal, or whether it would be in the interest of justice for an indigent to be able to appeal to an intermediate appellate court, or 2) on collateral attack (e.g.: habeas corpus, as in Pennsylvania, under a Post-conviction Relief Act).

The pressing question is then, should Douglas be extended to cover these situations. I believe it should not. My reasons for believing this are pragmatic and fairly simple. The argument for extending Douglas would basically be that to insure equal protection to the indigent he should be granted counsel to carry out any appeal allowable for that is the opportunity that a paying client has.

Under the Equal Protection Clause can never be absolutely construed. Absolute equality is impossible. Providing every defendant with a lawyer all the time will not create absolute equality, for the court appointed lawyer will usually be a young, inexperienced lawyer as compared to the lawyer a rich man could hire. The Court in Douglas realized this. It stated, "Absolute equality is not required; lines can be and are drawn to promote greater equality." Should a line be drawn here? Again I believe so. Under Douglas an indigent is assured of counsel for his direct appeal. He has not only had his day in trial court, but he has had after trial, his counsel and he should be able to bring them out on direct appeal. Perhaps the area where an indigent should have counsel to help him on collateral attack is when the Supreme Court has created a new right which was not known of at the time of his direct appeal and which has been held to apply retroactively. For example, if the Supreme Court had held that the required warnings it mandated in Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1092 (1966) to be applied retroactively, then an indigent should be given counsel to help him frame his collateral attack based on a right which he did not know existed at the time of his trial and direct appeal. (Of course, the Court has not held that retroactivity of Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1092 (1966) that the warnings were not to be required retroactively.)
GIANNELLA EXAMINES ESTABLISHMENT CLAUSE IN HARVARD LAW REVIEW

by JUSTIN BLEWIT

In the January 1968 issue of the HARVARD LAW REVIEW, Professor Donald A. Giannella, in an article entitled Religious Liberty, Nonestablishment and Doctrinal Development, Part II, discusses the doctrine of the guarantees embodied in the First Amendment in the light of the ever-broadening scope of governmental regulations.

Viewing the Constitution in its historical context, we see the framers intended a government of highly limited powers. Religion was certainly to play a part in the established social order, but it was then thought that the state would have a passive role in forming that order. Clearly, the liberty it is to remove governmental government assuming a positive role in structuring the social order — the question as to how to treat religious groups has become a fundamentally different one.

The principle of "free exercise neutrality" discussed in Part I of Professor Giannella's article explains that a legislative enactment which would overtly and overtly give any governmental benefits to organizations whose way of life may be regarded as abhorrent can be sustained only if the action is justified by the need to prevent danger to the public welfare. However, it fails to justify aid to religious organizations when that aid flows from the secular public interest in the advancement or inhibition of religion. This point underlines the scope of the legislative activity which should be circumscribed by the First Amendment.

Professor Giannella suggests that the demand for governmental regulation as called for by the rule of strict neutrality, would not properly serve the purposes underlying the Establishment Clause. The test in determining whether a legislative enactment violates the "establishment clause" is "the primary and primary effect of the act in question is to advance or inhibit religion in areas which are religiously neutral."

The Supreme Court in Abington School District v. Schembari, 374 U.S. 203, would seem to indicate that the disregard of the latter is stating:

"the test in determining whether a legislative enactment violates the "establishment clause" is the primary and primary effect of the act in question is to advance or inhibit religion in areas which are religiously neutral."

The theory of strict neutrality benefits to organized religion. The theory of strict neutrality categorically exclusion of religious groups receive civil opportunities and the State Support of the Commonwealth and the Commonwealth was launched in December and which it is hoped will successfully be completed sometime this month, is well underway and is gaining momentum daily. As of mid-March, close to 600 cases have been brought thus far contributed and the amount contributed is considerable in some but negligible in others, in bygone cases. But Ed emphasizes that the amount contributed is not as significant as the fact that the cases have been contested. The goal this year is not simply to match, but to surpass last year's phenomenal 88% alumni response. All alumni are urged to make their contribution now in order to assure that this year's drive from the concentrated high school group which he envisions was created when a large segment of the alumni wait until the last minute to make their contribution.

GIANNELLA: Students Perform In Mock Trials

by ROBERT J. EBY

On Saturday morning, March 2, 1968, the case of Commonwealth v. John Evans, Jr., the inquisition in the Villanova University School of Law courtroom with Judge J. E. Collins presiding. The trial was another in the series of courtroom experiences performed by third year students in this year's Trial Hil. The current series is being completely handled by the participating student attorneys. The various witnesses are portrayed by other students. The case for the Commonwealth was handled by attorneys Barry Welch and Glenn Equi. Mr. Evans was represented by David Knoel and William Gilrey. Defendant Evans (portrayed by Mike Kavanaugh) was charged with the felony-murder of one Howard Lane. The crime was allegedly committed while Evans was participating in the perpetration of a robbery. In addition to this case, the Commonwealth called the father of the deceased William Lane (Barry Welch) as a witness. In addition, the arresting police officer, Sergeant O'Conner (Dennis O'Hara) offered testimony regarding the investigation and arrest of the defendant.

The defense presented five witnesses. Taking the stand on behalf of the defense were Mr. Jones (Fortunata Guidice), who described being a bystander, the three defendant (Harry Ilmes), the examining physician, and Elizabeth, a clothing store owner (Byron Mil- because the cadaver of the student was found in the room where the first hearing was held, the defendant's participation was not voluntary. Fol­

The Faculty Committee for the establishment of a Faculty-Student Relations Committee held an open meeting to consider the proposal of the Committee to allow interested students to make their recommendations concerning the proposed organization. The Faculty Committee was formed in September to "investigate means for the expression of student interest in certain aspects of the functioning of the law school." It was hoped that through this open hearing on the proposed committee structure the students would indicate their interest in the proposal. Whether the faculty proposal was effective to achieve representation of students' views was now in question. The meeting was called by Professor Giannella, who was a driving force in the proposal.

A strict construction of "political neutrality" seems ideally suited toward achieving regulatory effectiveness and political equality on one hand, while avoiding improper aid to religion on the other. Yet, there are areas where this dual purpose will not be achieved without modification. Professor Giannella suggests two areas. First, certain governmental programs cannot realize their secular purpose unless a special place is accorded to religious activities of interests in their regulatory schemes. This, he describes as the "secularly relevant religious factor" which, taken into account, would allow religious organizations to share in the benefits which might otherwise be denied to them. Secondly, whenever the state extends a benefit to religion which cannot be classified as a logical by-product of admitting religious associations to the prevailing secular order on terms of general equality with other voluntary associations, then there exists a "disqualifying religious function" which would require that state support be denied. Professor Giannella concludes his premises and guidelines. Professor Giannella examines at length four current controversies: Zoning, Allocation of Broadcasting Licenses, Tax Exemptions, and Support of the Public Welfare Functions of Churches. He then concludes his article with an analysis of the constitutional questions involved in these areas, pointing out some questions in the lower and higher levels of education. This fertile field of controversy is one where public awareness and concern for the role which religion and church related schools will have in our education-system can be expected. This is because the above summary is intended to be nothing more than an introduction to a complex but illuminating analysis of many cases and is not an exhaustive study. Professor Giannella's article offers an analysis of the prevailing secular order on the basis of "neutral aid" which should be of interest to the concerned lawyer and law student.

The Faculty Committee would like to afford the student an opportunity to encounter the Vice-Dean and would money to cover his heavy gambling losses. In the alternative, Moncrieff, Jay Lambert and John Roll, in charge of the case for the prosecution, contended that the defense of coercion and duress was not sufficient to excuse the defendant's participation in the burglary.

As exemplified by these two sessions, the program provided a invaluable opportunity to encounter realistic trial situations. Thus the participants gained a valuable experience for their later practice which would otherwise be unavailable.
The Board of Consultants held their annual day of visits to various classes, met with the faculty and Dean Reuschlein, and enjoyed an evening dinner. However, this year there was a new addition to their schedule.

This year members of the Board of Consultants met with five student groups to discuss various matters of interest to the students and the law school. Participating in the five SBA being able to sell textbooks groups were students representing the Student Bar Association, The Inter-Club Council, and The Docket.

The Pass-Fail grading system was one topic of great interest. However, more than one of the groups felt that a complete pass-fail system was not advisable. One recommendation made was the possibility that during each of the last two years one course could be taken, at the election of the student, for a pass-fail grade.

Another topic covered was that of more practical experience in the mechanics of practice before graduation. This would include the continuation of the practice course and more participation in Community Legal Services and other similar programs. The possibility of credit for such practical work was also mentioned.

Another area which was covered was the placement of graduates after graduation. It seemed doubtful that small firms would be willing to engage in active recruiting at the law schools but held that alumni who know of possible opportunities might be another way to obtain available jobs.

Many other subjects were discussed including a teacher evaluation program; the requirements and restrictions on membership to The Law Review, with the suggestion of possible expansion; scholarships for second year students who were not on scholarship if full year; and the possibility of the

Social Light

Serge Warner, '70, was married to Judith Steele of Akron, Ohio. Law students in the wedding party included Joseph Marino and John Wurtz.

Anthony P. LaSpada, '70, and Cheryl Montenuevo have become engaged. Cheryl is a Public Health Nurse. They have set August 4, 1968 as their wedding date.

Paul F. Chaisi, '70, has become engaged to Judi Stokhamer. Judi is employed as a teacher, August 18, 1968 has been set for the wed- ding.

John R. Douhman, '70, is engaged to Barbara Collins. They plan to be married on May 25, 1968.

Milten Rosenblatt, '70, and Susan Silvers have announced their engagement. Susan is employed as a medical assistant in Philadelphia. A tentative date for the wedding has been set for June 1968.

Thomas R. Harrington, '68, has become engaged to Pati Gorman. Pati is a secretary. They will be married on September 7, 1968.

Moot Court

Moot Court (Continued from Page 1)

spontaneous in September 1968 that it would close the Bridgeport canning plant for economic reasons, and would close an anti-union animus and the Wilmington plant. Petitioners offered to bargain over this deci- sion, but Respondent refused and protested this action. The Board held that the closing of the canning plant during negotiations dis- closed an anti-union animus and constituted an unfair labor prac- tice. The United States Court of Appeals, Third Circuit, affirmed the Board's decisions, and the case comes before the United States Supreme Court, for de- cision.

The Reimel Competition is a voluntary most court program open to all second and third year stu- dents. Participants write an Ap- peal brief and argue in a series of elimination rounds before three man benches of the Bar and Ju- diciary. This year the law school was honored to have three Com- mon Pleas Judges from Philadel- phia sit as the Chief Judges for the Quarter-final Arguments, and six members of the United States District Court for the Eastern Dis- trict of Pennsylvania hear the arg- ument of all the cases. Robert F. Gordin's argument was the cul- mination of the competition.

After the argument, a reception will be held in the lounge, at which time all students will have an op- portunity to meet and talk with the distinguished members of this year's court. Following the recep- tion, the Moot Court Board will hold its Annual Dinner, at which the winners of the competition and this year's participants will be the hon- ored guests. At this time, the Theo- retical Competition winners will be presented to the Law Club of the win- ning team. In addition, a plaque will be presented to the Law Club whose members won the highest percentage of decisions in the sec- ond year single-round most court program.

MARCH, 1968
FACULTY EXPLAINS VIET NAM POSITION

by Patrick J. Mandracchia

In late 1967 various notable members of the Harvard Law School Faculty mounted a solicitation to support from faculty members the following petition (a replica of which appears below) critical of the current status of our involvement in South Viet Nam. In mid-February, the Villanova Law School Faculty was presented with a petition signed by its instructors. The Docket below is an attempt to record why the members of our faculty signed or declined to sign the petition. We do so in the hope that it may be of interest to all our readers. We therefore decided to interview the members of our faculty to ascertain the reasons and cooperation were laudable. Appearing first in the running rundown, in alphabetical order, are the views of those instructors who signed the petition:

1. Mr. Abraham commented that if we were to assume that our goal of saving Viet Nam from Commu-

nism is a justified one, the various means which we are employing to that end are in large part the sources of our problems with the war in Viet Nam. He does not believe that we should provide these officials with the means which will be favorably disposed to making in order to sustain these go-

vernmental policies. He believes that the signatories were out of touch with the current status of our involvement in South Viet Nam. In his opinion, the withdrawal of our nation's resources and moral energies has been a major disaster.

2. Mr. Brown defines the chief American goals of the war as the protection of viable (popularly sup-

ported) democratic governments which are striving for national liberation under the leadership of their own people. He maintains that we must weigh this interest against the threats which are being propagated on a daily basis. Mr. Brown also believes that the war in Viet Nam is a war of national liberation in the broadest sense.

3. Mr. Carnes commented that it hasn't always been that way. He believes that the Carnations of 1947, we gave our resources to those who would build (Marshall Plan) or who would fight Communism (Greece) but we declined to police (China). Then new international law which was made by treaty and we began to impose our legal environment (Arbent in Gemanos, Mogadish in Iran, Castro in Cuba, Le-

banon, Queden, Laos, etc.)

"How meaningful is freedom which must be policied? Doesn't the sense of security expire with the ease of peace talks? The San Antonio for-

ums which we are employing are capable of achieving the aforementioned goal. Thirdly, he maintains that we are employing to discontinue the disintegration in the world by a series of unilateralist enemies. The South seem to be a meaning-

less condition which will preclude neglecting the war. The greater the disintegration which we are employing to continue to subordinate desperately needed resources to Viet Nam, the thought of the war in Viet Nam is a wise and ade-

quate substitute for a divided Viet Nam, preferable to a divided Viet Nam, which will be of considerable interest to the students of the nation's other law schools for a replication of this petition, which in his opinion, was designed to embarrass the President during his current primary campaign period. He be-

lieves that we are obligated to sup-

port the people of Viet Nam in their struggle to achieve freedom.

The following professors did not sign the petition:

2. Mr. Collins disclosed that the only reason he refrained from signing it is that he was not inclined to sign the petition with which he could not support the whole people.

3. Mr. Dowd maintains that we cannot de-escalate and that every effort should be made to keep the U.S.A. secure negotiate a cease- tion of hostilities. As this is a political judgment he feels that it is an appropriate time to dis- cuss the issue of the state's status in the current status of our involvement in South Viet Nam. This he believes to be a serious issue.

4. Miss Hammond rejects the proposition that simply because one disapproves of our present course of action in South Viet Nam, he cannot be a patriotic American or that he must be a Communist. She believes that the war in Viet Nam is a war of national liberation in the broadest sense. This she believes is such the case marks of McC- Carthyism which was the earmark of a blunder in a time of national crisis. As this is a political judgment he feels that it is an appropriate time to dis- cuss the issue of the state's status in the current status of our involvement in South Viet Nam. However, he does not concur with the petition as calling for an immediate withdrawal or for a unilateral de-escalation. He said he opposes the war because he is convinced that the Vietnamese people do not have the will to defend their nation. Securi-

rity, he maintains, is that the carnage, which is not conducive to our national interests, is the progenitor of a legacy of bitter-

ness which will far outweigh any benefits which our current efforts can produce. It was recommended that a sounding of the student body's sentiment toward the petition be made. Pursuant to this recommenda-

tion, a copy of the petition was posted in Garr House and provi-

dation was made whereby interested students were enabled to register their approval or disapproval of the petition. Out of a total stud-

ent body of 599, 146 students par-

ticipated in the vote, 72 of which was conducted by THE Docket. The final count was 74 in support of the petition, 72 against.

A STATEMENT ON VIET NAM

The undersigned are members of the faculty and students at the Law School.

We are opposed to the present policy of the United States in South Viet Nam. We do not see any compelling reason for continuing the policy.

We reject the suggestion that opposition to the present policy necessarily implies advocacy of a precipitate withdrawal of United States forces or an abandonment of our supporters in South Viet Nam.

We believe that the terrible violence the war is inflicting on the people of Viet Nam is destroying the society we seek to protect.

We believe that it is wrong and dangerous in these circum-

stances to continue to subordinate desperately needed domestic programs to the increasing demands this war is imposing on our nation's resources and moral energies.

We therefore suggest that the present policy necessarily implies advocacy of a precipitate withdrawal of United States forces or an abandonment of our supporters in South Viet Nam.

We believe that the political and military de-escalation are essential steps towards ending the fighting in Viet Nam.

We believe that our country should take urgent steps, including a prompt reduction in the scope of land and air operations of our forces, to signify our intention to limit our political and military aims in South Viet Nam.

We believe that such steps are an essential precondition for the release of those political forces, both within South Viet Nam and internationally, which seek peaceful compromise and could engage in genuine negotiations.

We believe that lawyers who share our concerns for work in a change in that policy in every legitimate way they can, including the support of candidates committed to such a change.

CALENDAR OF EVENTS

Wednesday, April 17th

Annual Law Review Dinner. Speaker: Supreme Court Justice (ret.) Tom C. Clark.

Friday, April 19th


Friday, April 26th


Sunday, May 5th

Class Day: Garr House.

Monday, May 13th

Commencement at Philadelphia Civic Center, 3:30 P.M.

THE VILLANOVA DOCKET

MARCH, 1968