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Participants in the two-day conference on the "Mentally Ill Offender" meet with Dean J. Willard O'Brien. From left to right are the Hon. David L. Bazelon, O'Brien, Richard L. Bazelon, and the Hon. Edmund B. Spaeth, Jr.

Alum faces disbarment for advertising fees

By BETH WRIGHT

Stephen Shaiman, '72, faces disbarment, the fate of Watergate felons. Shaiman's antisocial act was advertising. He publicized himself as a lawyer. This, according to Pennsylvania's **Code of Professional Responsibility**, is conduct adversely reflecting upon his fitness to practice law.

Shaiman published his minimum fee schedule once in the **Philadelphia Inquirer** and twice in his neighborhood **Roxborough Review**. Shaiman's price for an uncontested divorce, including costs, is $350 as opposed to the going rate of $550 to $750. Legal advice for selling or buying residential real estate is $200 (more if the transaction is complicated), compared to the usual fee of one percent of the value of the home, complicated or not. His sin is not the charging of modest fees; it's the advertising. Apparently it's all right to be economically competitive as long as the consumers don't know about it!

Champerty, maintenance, and barritry are the medieval words of art meaning, in common law terms, "officious intermeddling" on one side or another in litigation. That's advertising. That's how the legal establishment protects itself. According to Shaiman, this "secular priesthood" has a stranglehold on the legal profession which benefits neither new lawyers nor consumers.

The 'Neglected Middle'

The consumers, Shaiman says, are the "neglected middle" and those he wants to reach. The rich can afford high fees. The poor have special groups catering to them. The middle class consumer, faced with a $50 hourly billing rate (Shaiman's is $25) hesitate to spend money on a lawyer. After all, that's one day's pay for the consumer in exchange for one hour of a lawyer's time.

On the other hand, he wants quality legal work. Shaiman wants to provide it. Significantly, he has had no complaints from his clients or from consumer groups about his advertising.

The support of consumer groups is something Shaiman is mobilizing to aid his crusade. He also hopes for support from other lawyers. He's been active with various consumer-oriented committees of the Philadelphia Bar Association. Overt support from colleagues has been less than overwhelming, although many have asked him if his ads have brought

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Bazelon keys conference

By JOHN HALEBIAN and TOM McGARRIGLE

In keynoting a two-day conference here on the "Mentally Ill Offender," the Hon. David L. Bazelon, chief judge of the District of Columbia Circuit Court of Appeals, set the tone at the meeting when he queried: "What should we **do** with 'mentally ill offenders?' How should we **deal** with individuals who have violated society's criminal laws but who, we have decided, should be excused from normal concepts."

Bazelon addressed some of the critical issues that courts must confront in evaluating the mentally ill offender. He asserted that: "The basic problem in deciding what to do with 'mentally ill offenders' is that such people make 'the rest of us' uncomfortable. We are ambivalent, torn between our self-protective instincts on the one hand, and our humanitarian instincts on the other."

"Too often," he continued, "our conflicting desires cannot be reconciled — the types of custody that make us feel most comfortable are often not the best treatment of custody for these individuals. And the danger is that we may lose sight of **why** we are doing what we are doing — a treatment rationale can sometimes serve as a handy cover for a decision to institutionalize that is, in fact, motivated largely by our desire for self-protection."

Humanitarian Aspects

In particularly emphasizing the humanitarian aspects of treatment Bazelon concluded his keynote address by quoting George Bernard Shaw who wrote, "The worst sin towards our fellow creatures is not to hate them but to be indifferent to them: that is the essence of inhumanity."

Bazelon is a leading national figure in the area of law and psychiatry. He was introduced by the Hon. Edmund B. Spaeth, Jr., Judge, Superior Court of Pennsylvania. Spaeth is also the chairman of the Board of Advisors of the Institute for Correctional Law. In conveying his own feelings about Judge Bazelon, Spaeth quoted a passage written by W. H. Auden in 1939: "Defenseless under the night, our world in stupor lives, yet dotted everywhere ironic points of light flash out wherever the just exchange their messages. May I, composed like them of eros and of dust, beleagured by the same negations and despair, show an affirming flame."

The conference focused upon the Mental Health Procedures Act which was passed by the state legislature in Harrisburg last summer. The purpose of the law is to protect the civil rights of mental patients. It was partially drafted by some of the very attorneys who attended the conference and participated in the panel discussions. The act includes a patient Bill of Rights which allows the patient "the right to participate in the development review of their treatment plan."

The act was severely criticized during the two-day conference. In discussing the determination of legal responsibility under the Act, Dr. James Taylor, Chief of the Department of Neuropsychiatry at Pocono Hospital, noted several problems with implementing the Act.

"I'm one of the guys out in the boondocks implementing this Act," he started out. "You say the purpose of the Act was to grant individual treatment, to humanize the mental health treatment of these people. It does just the opposite."

Cites Dilemma

Taylor went on to give an example in which "the psychiatrist is sort of put in the middle. If I commit someone and restrict them over what they should be restricted, I am liable. I've got a malpractice lawyer on my tail. If I discharge them after three days," he continued, "like the Act says, and they commit suicide, I'm liable. So what I do on every single commitment is to apply for a 303. No exceptions. (*Editor's Note: a 303 is extended involuntary emergency treatment for 20 days*) Now they have to appear before a judge . . . you have made the patient my enemy by this Act. . . . you attorneys have brought your adversary type of attitude into the patient-doctor relationship . . . I'm practicing even more defensive medicine than I was before."

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Students spar with D.A.

By JEFF LIEBERMAN

Philadelphia D.A. F. Emmett Fitzpatrick, observing that the district attorney shouldn't be someone for the public to look to for moral guidance, spoke to a large crowd in the student lounge on February 23.

In response to sharp questioning, Fitzpatrick retorted that he wasn't elected to be a moral leader of the community. "I didn't run for D.A. so that I could prove that I'm a better person than you or even that I live by your moral code," he said. "If you want to look at me as an individual, remember that I'm probably the most investigated public official in three years." And, he added, "I remain unscathed by any charges."

Appearing in a program sponsored by the Villanova Law Forum, the district attorney spoke briefly and then fielded questions.

However, he refused to answer a question as to whether he took the Fifth Amendment in a federal grand jury investigation, citing attorney-client privilege and the fact that the investigation was still ongoing.

Philadelphia D.A. F. Emmett Fitzpatrick

"There's a time for disclosure and a time for not," he stated. "Right now, I'm not going to tell you anything. When and if the investigation reaches a conclusion, I'll be happy to discuss fully everything that happened."

Stresses Diversion

Commenting on the criminal law system, Fitzpatrick noted that "if there's any future at all, it has

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Intelligence chief explains tax probes

By LILLIAN KACHMAR

Thomas F. Martin, chief of the Intelligence Division of The Internal Revenue Service for the Philadelphia District, spoke here March 10 on criminal tax investigations. Martin, who is also an attorney, supervises criminal tax investigations and has been with the intelligence division for 22 years. He was the IRS coordinator for the Watergate investigation while it was under the direction of Archibald Cox and Leon Jaworski.

According to Martin, the initial piece of information which will instigate an investigation can come from many sources: routine audits, other federal agencies, paid informants, or the public. He estimated that about 8,000 pieces of information a year are screened by his office. A taxpayer under investigation may never know how the case originated since all of the IRS sources are kept strictly confidential.

Tax investigations can run for over a year with one or more special agents researching and investigating a charge. A special agent has complete charge of the investigation and is not restricted geographically, but can conduct the investigation anywhere in the United States or even overseas. After the investigation is completed, the special agent will make a recommendation on criminal prosecution. If no criminal action is brought, the charge will be settled civilly.

If the special agent recommends prosecution, Martin, as chief, must concur for a prosecution to follow. The special agent will be involved from the inception to the closing of the case; he will act as a witness at the grand jury proceedings, assist the U.S. attorney in the preparation of the case and attend the trial.

Two Routes

Martin said that once he has decided to prosecute, the case may go one of two routes. In the minority of cases, the charge will be directly referred to the U.S. Attorney for immediate prosecution. Martin indicated that certain cases require prompt action if the taxpayer is to be prevented from carrying out his fraudulent scheme. For example, in multiple refund cases, where the taxpayer has made a false claim for a return, it is necessary to get to the taxpayer before the refund check gets to him.

Thomas F. Martin

In the majority of cases, a letter is sent to the taxpayer informing him of the conclusion of the investigation and the referral to the Regional Counsel for prosecution. At this stage, counsel for the taxpayer may seek a conference with the Chief of the Intelligence Division in order to explain his client's position and possibly avert prosecution by offering his client's defenses. Sometimes a sup-

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Applicants up here, down elsewhere

By RENEE McKENNA

In the past decade American law schools have been bombarded with applications of qualified individuals far in excess of the number of spaces available in each entering class. The number of applicants has shown an extremely sharp increase in the last five years.

This year, however, many law schools are experiencing a new trend. Applications have dropped; in many cases significantly. One well-known California law school found such a dramatic decrease that it conducted a survey throughout the United States to see if other law schools had experienced a similar phenomenon.

In addition to the decline in applicants to law schools, statistics show that the number of students taking the LSAT in the past year has diminished. The final results as to the actual reduction are not yet available.

Despite the crunch, there are some law schools where the number of applicants has continued to rise. However, even in these institutions, the increase has often not been as high as that enjoyed in past years. For example, Columbia Law School had only a five percent increase and applications received by Harvard and Yale are approximately equal to those for 1976.

Villanova Increase

Despite the national trend, Villanova Law School has experienced a significant increase in the number of persons seeking admission. To date, about 2,300 applications have been received by the admissions office. Only 220 to 230 seats are available in the fall class.

This is an 11% increase in applications from last year. In addition over 10,000 catalogs have been mailed out, an increase of more than 3,000 from 1976.

Why the "reverse trend" at Villanova? Admissions Director Sandy Moore gave several possible reasons.

Improving Reputation

Moore primarily attributes the "jump" to the improving reputation of the law school. "In recent years Villanova's reputation as a law school has grown on a national level," she said. "We have graduates who are practicing all over the country and doing well." "In addition, many of our professors and graduates have attained positions of high professional standing in private practice and public service which has also contributed to the reputation of the law school."

To name a few persons of local fame, Moore cited Judge Lisa Richette, one-time professor at Villanova Law School, who was recently nominated to sit on the Pennsylvania Supreme Court and former Congressman William Green who attended Villanova Law School, and was a member of the Class of 1957.

Another reason cited for the increase in applications at Villanova is geographic location. The schools which appear to be hardest hit by the recent decline are those in geographically isolated areas. There are schools with excellent reputations in isolated locations who are experiencing a decline.

Schools in the Delaware Valley have, in general, enjoyed an increase in applications. The University of Pennsylvania School of Law is experiencing a high increase in the number of applicants. The recently accredited

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Code shuns self-laudatory ads

By BETH WRIGHT

A lawyer is forbidden to advertise under the provisions of the **ABA's Code of Professional Responsibility.**

Beyond moral suasion, however, is the enforcement section, the "Disciplinary Rules," which state: "A Lawyer shall not publicize himself . . . as a lawyer through newspaper or magazine advertising." (DR 2-101B) The previous section prohibits "professional self-laudatory statements calculated to attract lay clients." (DR 2-101A)

Why should lawyers be forbidden to advertise? To keep the profession a closed shop, say the detractors. To maintain the profession's dignity, say the ban's advocates.

Those who dislike advertising — the ABA for example — fear that the canons of ethics will be undermined by tasteless charlatans. Lawyers have not always had the respect of the community. Many feel that what progress the profession has made from the 19th-Century image of shyster-lawyer is due in large part to the canons of ethics.

If the Disciplinary Rules in the Code were removed, it is doubtful that the Ethical Considerations alone would provide sufficient restraint to prevent or regulate legal advertising. False or misleading puffery would, it is feared, be everywhere.

For example, a lawyer advertises his specialty as family law. Does that mean he is especially skilled? Or does it mean that is what he's been doing because nobody has asked him to do anything else? Or maybe he'd like to try his hand at family law and hasn't had any takers in that area as yet. The Code's ban on advertising is a recognition that the correctives of the marketplace may be less than thorough.

Disciplinary Council

The code governs lawyers because the Pennsylvania Supreme Court, on the basis of its inherent jurisdiction to license lawyers, says so. The other 49 states operate similarly. Violations are handled by a nine-member, statewide board appointed by that court. Prosecutors appointed by this board make up the disciplinary council.

Hence a violator's first contact with discipline is the disciplinary council when the prosecutor asks the allegedly errant lawyer to cease violating and gives him 20 days to reply to charges. The lawyer files an answer, discovery takes place, briefs are filed, and there is a hearing before a three-member committee comprised of members of the Bar. The final state appeal is the Pennsylvania Supreme Court. Possible penalties are private or public censure, suspension or disbarment.

However, an appeal to the U.S. Supreme Court is possible if a lawyer claims his constitutional rights are being abridged. In **Bates v. Arizona,** the advertising case presently before the court, Bates claims abridgment of freedom of speech and also a federal question having to do with Sherman antitrust regulations.

Free Speech Concern

The free speech problem concerns how far the Bar can regulate speech as to time, place, and manner. Other questions present themselves, also. Is the dignity of the legal profession a valid state interest which could be countervailing to a lawyer's free speech privileges? How far can the state regulate professions?

A recent U.S. Supreme Court case, **Virginia Board of Pharmacy v. Virginia Citizens' Consumer Council,** illustrates the clash of the modern consumer movement

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Alum faces disbarment

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in a lot of business. Answer: not much. However, in the course of this interview with **The Docket,** his phone rang five times. They can't all have been selling light bulbs.

Charges Imminent

Shaiman does not contemplate running more ads right now. Formal charges from the disciplinary council are imminent, with the final appeal from any sanctions imposed being the Pennsylvania Supreme Court.

Meanwhile, Shaiman is becoming a media celebrity. Tuesday morning, March 1, found him appearing on KYW television right after the Pillsbury Bake-off winner (chocolate mousse with brownie crust) and "Sugar Britches" (lexicographer of CB slang). Another TV appearance and his performance as a panelist at the Philadelphia Bar Association's Quarterly Meeting kept him busy that week.

Ironically, it is the actions taken against him that are propelling Shaiman into his position as minor pop hero, with the accompanying circus side effects. He states he has no interest in advertising except in good taste: no neon light, no skywriting, no TV.

Shaiman feels that, if he is disciplined, the public's already cynical opinion of lawyers will be strengthened. The trend in attitudes toward professions is that of a growing insistence on free availability of marketplace information to consumers. Consumers seek accountability for teachers, malpractice for doctors. Furthermore, Shaiman says he is not only exercising his First Amendment rights, he is also fulfilling his professional duty to make counsel available to clients.

Shaiman's case parallels **Bates v. Arizona,** now in the oral argument stage before the U.S. Supreme Court. He is part of a growing movement in the legal profession, but seems to be the first Pennsylvania lawyer to put his own career on the line.

Stephen Shaiman, '72, holds paper containing the ad which may result in disciplinary action against him by the Bar.

Insights into 1976 Tax Reform Act

U.S. lawyer calls it 'too complicated'

By NANCY FELTON

Editor's Note: Phil Wiesner, husband of Christine White-Wiesner, Assistant Dean and head of the Placement Office, is an attorney-advisor with the Office of Tax Legislative Counsel, Department of the Treasury, in Washington, D.C. The Office of Tax Legislative Counsel (TLC) is headed by the Tax Legislative Counsel and has a staff of 14 lawyers and one accountant. The TLC advises the assistant secretary of the Treasury for Tax Policy and the deputy assistant secretary. Just as the **New York Times** *ran an article on "Two Men Who Draft the Laws" (2/20/77) to get some insights on the new tax law,* **The Docket** *was able to ask Mr. Wiesner questions regarding the 1976 Tax Reform Act, his role in its formulation, and his work with the TLC in general.*

The actual writing of a tax law involves numerous congressional and executive agencies. The primary responsibility for the actual drafting of a bill is that of the House or the Senate Legislative Counsel's Office. (The House's leading draftsman in this regard is Ward Hussey, see NYT 2/20/77.)

The congressional committees with responsibility for tax legislation are the House Ways and Means Committee and the Senate Finance Committee, each of which has its own staff. However, the primary congressional tax-writing staff is that of the Joint Committee on Internal Revenue Taxation. The Chief of Staff of Joint Committee is Bobby Shapiro, who plays a key role in the development and the drafting of a tax bill (see NYT 2/20/77).

The Executive Department inputs are the Office of the Assistant Secretary for Tax Policy of which TLC is a part and the Legislation and Regulations (L & R) division of the IRS. The basic authority for tax policy decisions rests with the Assistant Secretary for Tax Policy, who is Dr. Laurence N. Woodworth (see NYT 2/20/77).

Tax proposals may be initiated either by the Executive Department or Congress itself. The Tax Reform Act of 1976 began in 1973 when then Secretary of the Treasury Schultz testified before the House Ways and Means Committee on the need for tax equity and the simplification of the tax code. The preparation of the Secretary's testimony and the initial drafting of the proposals were the job of the Office of Tax Legislative Counsel.

Wiesner came to TLC in June, 1975 with the understanding that he would work on the tax shelter and minimum tax provisions of the new tax bill. When he arrived, the Administration's proposals had already gone through some Ways and Means Committee revisions; but it was believed that the House of Representatives would adopt the basic tax shelter proposals.

Wiesner's first task was to "prepare for the Ways and Means Committee hearings to be held in September, 1975. We had to anticipate the questions that might be raised, consider all the alternative proposals that might be presented and prepare our arguments as to what we thought was good tax policy," he commented.

"This role was repeated as the bill progressed to the Senate Finance Committee, the House-Senate Conference Committee and ultimately to the White House for its consideration. During this period the pressure was intense. For example, the Conference Committee finished its deliberations on a Thursday with instructions to report the bill and accompanying Committee Reports by the following Tuesday. Needless to say, no one got much sleep that weekend." (At the Committee hearings the Assistant Secretary for Tax Policy usually presents the views of the Treasury Department.)

In the context of tax shelter, the Administration's goals were to reduce the use by high-income individuals of tax shelter devices, e.g., cattle breeding syndicates, movie production partnerships, and to assure that such taxpayers pay at least a minimum tax on their economic income. It is interesting to note that the bill, as finally enacted, does not contain the Administration's proposals on tax shelter. However, Congress did adopt provisions that should substantially reduce the use of tax shelter devices and should increase the amount of tax high-income Americans pay.

Other members of TLC were performing similar tasks with respect to other portions of the Tax bill dealing with capital formation, individual income tax provisions and estate and gift taxation, to name a few. The 1976 revision is most comprehensive; the bill itself contains more than 500 pages.

When asked his opinion of the new law's weak points, Wiesner answered, "It is too complicated. It is so complex that it is difficult even for tax experts to know what is meant in many cases." However, he noted that "It is the objective of the present Administration to simplify the Internal Revenue Code before it collapses of its own weight." As to whether it is possible to simplify the tax law, Wiesner points to the proposal in the current Tax Simplification and Stimulus Act which, if enacted, will increase the use of the tax tables and make filing a tax return easier (if not more fun) for the majority of taxpayers.

The Internal Revenue Code's present state of complexity is due in large part to the way Congress approaches tax problems. For example, in the Tax Reform Act of 1976 an objective was "to deal with certain perceived abuses in the area of tax shelters," stated Wiesner. "However, rather than repealing the deductions that resulted in tax shelters, the Congress chose to add another layer of Code provisions to deny the benefit of these deductions to certain taxpayers."

Phil Wiesner, attorney-advisor with the Office of Tax Legislative Counsel in Washington, D.C.

Another objective of the bill was to provide relief for certain taxpayers. For example, the expanded child care credit provided relief for working parents, "but the computation of the credit makes the tax returns more complicated."

Wiesner also answered a question on the tax treatment of working couples. The problem is that a married couple with two equal incomes pays more in income tax than two single people earning the same total amount of income.

This "inequity" developed out of the joint return concept, a measure adopted by Congress during WW II, to provide more favorable treatment to married couples. Congress then subsequently modified the tax rates for single people when they complained about the differences between their treatment as compared to married people. The result today is the anomaly of a "single" couple having a better tax rate than the comparable married couple. "It is a good example of how an attempt by Congress to provide relief for one group of taxpayers raises further, more complicating, problems," says Wiesner.

Another reason for complexity is the legislative process itself. Wiesner said there is a large amount of "horsetrading" as attempts are made to reconcile the various interest groups. In the Tax Reform Act the Con-

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FINANCIAL AID NEWS

If you have not signed your spring term promissory note, do it now.

GAPSFAS forms should go to Princiton by April 30

Applicants up here

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Delaware Law School has also seen an increase. Temple Law School, however, did not experience an increase in the number of applicants, but did see a significant jump in the number of qualified applicants.

Financial Reason

Financial considerations appear to be the third reason that students are applying to Villanova. In spite of recent tuition hikes, Villanova is still considerably cheaper than many other schools of comparable reputation. The student-faculty ratio and the relaxed atmosphere of the school have also contributed to the increase of applicants visiting the school. The latter seemed to be the most important factor.

In addition to the rise in the number of applicants applying this year there has also been a change in the quality of the undergraduate educational backgrounds of the applicants. Applicants, Moore feels, are better qualified than ever. Although LSAT scores have remained about the same, the writing ability and general quality of the applications have improved considerably.

The type of person applying to the law school has also shifted. There has been some decrease in the number of applicants with political science and history backgrounds and a noticeable rise in the number of applicants with backgrounds in the "hard sciences" and in accounting and nursing.

IRS chief explains tax probes

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plemental investigation will follow. However, at the IRS conference level the defense counsel is unlikely to receive any information that will be useful in his defense of the taxpayer, according to Martin.

Limited Discovery

The next level of pre-prosecution review is at the IRS Regional Counsel's Office where IRS attorneys independently view the evidence and from a legal standpoint determine the likelihood of a successful prosecution. At this level, the taxpayer's attorney may again review his client's case with the IRS. This conference is more likely to result in the obtaining of useful information, such as the theory of the case, potential witnesses, and the amount of taxes involved.

If the Regional Counsel's Office concurs in the decision to prosecute, the case is then forwarded to the Department of Justice's Tax Division where the case is then again reviewed for its legal and evidentiary content. This is the first time that the case is reviewed by non-IRS personnel.

At this point, the case is directed to Washington, D.C., because of the concern for a uniform application of the federal income tax laws. Again, counsel for the taxpayer may confer with attorneys in the Department of Justice concerning his client's case. If the Department declines to prosecute the case, it is returned to the IRS for disposition through the civil division.

To Grand Jury

If it is accepted, the case is turned over to the U.S. Attorney General's Office. The U.S. Attorney receives the accumulation of evidence, reports, memoranda and recommendations from the Department of Justice, presents the case to a grand jury for an indictment and proceeds to a trial through the normal process.

Martin noted that because of the extensive process of screening and research, there is very little margin of error. Thus the conviction rate is about 90 percent. With respect to jail sentences, Martin said that although it is not the policy of the Attorney General's Office to request jail terms for tax offenders, the IRS prefers at least a minimal sentence as a means of stressing to the public the criminality of tax offenses.

Further, in selecting cases for prosecution, he stated that factors of notoriety and publicity also are considered. Criminal prosecution of tax offenders can serve as positive reinforcement to the public's willingness to comply with the tax laws, according to Martin. Speaking generally, Martin noted that the Eastern Judicial District had the lowest number of jail sentences for tax offenders last year, approximately 10 percent, as opposed to a countrywide average of about 30 percent to 40 percent. The jail sentence is, of course, in addition to the offender's obligation to pay the taxes involved, plus interest and penalties.

Parking problem unprecedented

Infractions of the parking rules have reached an unprecedented level and should no longer be tolerated. Anyone who has been blocked in or had his fender dented knows this too well.

The situation prompted Assoc. Dean J. Edward Collins to post a warning that violators risk having a notation of professional irresponsibility placed in their records. Students sadly poo-poohed this warning, but Collins had already compiled a list of multiple offenders. Beyond this, he admits, the law school administration has little recourse.

The policing responsibility is the university's. Enforcement has been sporadic at best, and in fact, students from St. Mary's Hall, an undergraduate dormitory, have exacerbated the problem by wrongfully taking law school places.

We agree with the law school administration that it should not be required to go into the business of collecting fines or otherwise extending its resources to shore up a leaky effort by university security. However, there should be no parking problem at all. Students who plan to make a career of the law should demonstrate responsibility by obeying simple parking rules and showing general courtesy.

We also feel that at times the university's solution of towing offenders becomes unduly burdensome. The $25 release fee is steep and the Radnor Garage has often been accused of arrogance and negligent care of students cars, which are sometimes damaged. In addition, the lack of notice to the violator that his car has been towed has the inherent possibility that a student will be left without a means of retrieving his car and without the time to cash a check since checks are not accepted at the garage.

The towing policy could be more equitable to the violators and might even be unnecessary. Security forces should be allowed to issue tickets for $5 or $10, only towing after the student had run up a certain amount of fines. This way, the student would have fair notice. The university would have a policy which would not be time consuming and would in fact, be remunerative.

Again, we must primarily urge students to resolve this situation. Each individual must remind himself that the difference between professionalism and short cutting the law is a two minute hike.

Exams: just test of tenacity?

Scheduling of spring exams has reawakened the student discontent evidenced during last semester's marathon exam process. Students who lack the Spartan endurance required to take four exams in five days, or three in four days, are met with little sympathy from those who determine the schedule. The problem of "back to back" exams is a very real one for the law school community, and stands in contravention of the supposed purposes behind examinations.

The exam itself is designed purportedly to test students' command of the law and their ability to apply it in hypothetical situations. When exams are tightly scheduled, allowing little time to refresh the mind and body, the exam process becomes a test primarily of the physical and emotional strength of the student, rather than a barometer of his knowledge of the subject matter. The grades earned, of importance in seeking employment, may reflect who are the "fittest" in this survival game, and not necessarily who are the "wisest."

Admittedly, professors require time to prepare exams and to grade third-year exams before graduation. This would seemingly dispose professors to favor an exam period which begins earlier, to allow more time between exams.

Students must take priority. We fail to see that professors would suffer an increased burden if such proposals as self-scheduled exams were put into effect. The faculty has recognized the need for changes with regard to first-year exams, and the same should hold true for upper classmen.

It is true that a referendum among students on the question of self-scheduling of exams did not receive strong support in the fall. Students must bear at least the burden of reaching a consensus.

In a larger sense, the burdens and duties must be shared by faculty and students when it comes to exam scheduling. This mutuality is, at best, buried behind a tortuous scheduling scheme.

Commentary

The New Philadelphia Lawyer?

By JAY COHEN

Philadelphia lawyers have been much maligned in the past. From Hollywood producers to W.C. Fields, Philadelphia attorneys have gotten a reputation for being something like the walking dead in pinstripes. Recently, two Philadelphia lawyers have come under intense fire because they, like all their fellows, have been greatly misunderstood.

District Attorney F. Emmett Fitzpatrick has been criticized locally for his remarks at a Villanova Law School Law Forum. Mr. Fitzpatrick's words were to the effect that he had not been elected Bishop of Philadelphia and that he was not expected to be the moral leader of the city. All that he was required to do was to be a competent administrator.

And for this he is accused of mocking The Church. Well, how wrong can people be. Fitzpatrick had no particular Bishop or even faith in mind. He merely meant that he didn't think morality entered into his job. How true. Historically, one may point to Caesar's district attorney, who had similar remarks for critics when accused of shady connections to a dealer of new and used chariots on one of Rome's seven hills (Chestnut Hill?).

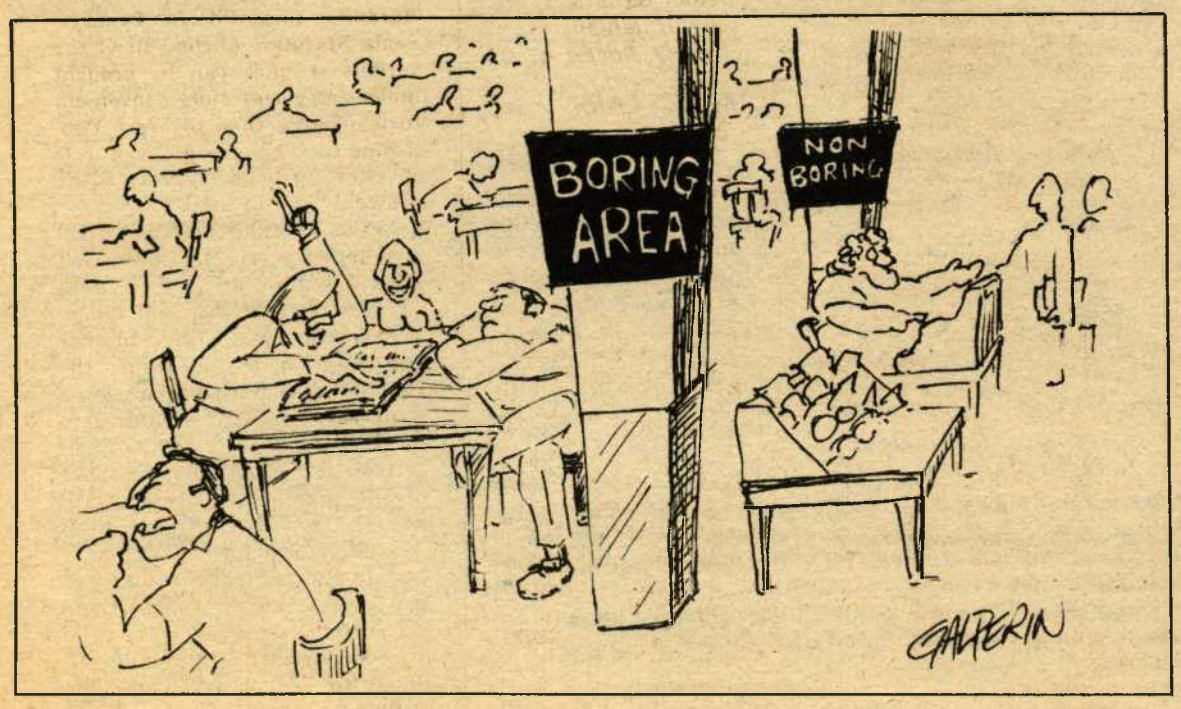
Another disparaged Philadelphia lawyer is Richard Sprague, chief counsel to the congressional committee investigating the assassinations of President Kennedy and Martin Luther King Jr.

Sprague has been assailed for allegedly being unmindful of civil rights in his investigation and has been called "scurrilous" by the committee's former chairman, Rep. Henry Gonzalez.

However, this is mere viciousness. Philadelphians know that Sprague simply has a tough way with people.

Furthermore, it is an absolute untruth that Sprague has said "It worked for Attila the Hun." Reporters unfamiliar with the Philadelphia milieu have obviously confused Sprague with Mayor Rizzo, wrongfully attributing the mayor's oft quoted statement to Sprague. (And they confused the words, too; Rizzo said he'd make Atilla the Hun look like a fag.)

But this is all too natural. After all, Rizzo is an ex-cop and next to Philadelphia lawyers they are the second most maligned group. Perhaps they should also be defended. . .



VLS moot in Jessup competition

By PHILIP COLLINS

Villanova was represented in the Eastern Regional of the Philip C. Jessup International Law Moot Court Competition at Cornell on March 11 and 12 by Donna Baker, Phil Collins, Mark Gibney, Kent Johnson and Jack Loughhead. Captain Jack Loughhead oversaw preparation of Memorials (briefs) and oral argument.

The team argued four times at Cornell, twice on each side. The Villanova team opposed teams from SUNY at Buffalo, Rutgers-Camden, Ohio Northern and Dickinson Law Schools.

St. John's Best

St. John's won the award for the best team and also had the best oralist. Syracuse had the best pair of Memorials in the competition. Twelve teams competed. Villanova won no awards. Complete results were not available at deadline.

The problem involved a dispute between two fictional countries — Pandora, a nuclear weapon state party to the Non-Proliferation Treaty, and Shangri-La, a developing country between India and China.

Nuclear Safeguards

Pandora and Shangri-La had agreements (treaties) under which Pandora agreed to permit transfer of nuclear fuel and material to Shangri-La for use in energy reactors, while Shangri-La agreed to apply safeguards to nuclear materials shipped.

Shangri-La built a nuclear reprocessing plant over Pandora's objections and asked Pandora for permission to reprocess spent uranium into plutonium, the material from which nuclear bombs are made. Pandora passed a law forbidding nuclear fuel shipments to any nation unless that nation agreed to join the Non-Proliferation Treaty or put all its fuel under International Atomic Energy Agency safeguards and agree not to make nuclear explosives.

Terms Rejected

When Shangri-La rejected Pandora's terms, Pandora terminated fuel shipments to Shangri-La. Shangri-La brought the dispute to the International Court of Justice. The main issue raised was the law of treaties, focussing on the Vienna Convention on the Law of Treaties of 1969 provisions on interpretation of treaty texts, the effect of municipal (national) law on treaties and the development of peremptory norms of international law.

Philip C. Jessup was an American judge on the International Court of Justice in the 1950's and 1960's. The Philip C. Jessup International Law Moot Court Competition involves teams from law schools around the world, although the majority of participants are from the United States. The final round of the competition, as now organized, pits the United States champion against the international division champion.

Phyllis Beck (left), vice-dean of the University of Pennsylvania Law School; and Greta Aul, a member of the Pennsylvania Commission on Women.

ERA seen as 'moral mandate' by Penn Law School vice-dean

By JAY COHEN

The Pennsylvania Equal Rights Amendment (ERA) has been more beneficial to males in the state than women, according to Phyllis Beck, vice-dean of the University of Pennsylvania Law School. Beck told students that despite its shortcomings she still regarded the ERA as a "moral mandate."

Beck appeared with Greta Aul under the auspices of the law school's Women's Association. Aul is a member of the Pennsylvania Commission on Women.

Speaking on the impact of ERA on domestic relations in Pennsylvania, Beck described a "patchwork result," of recent court decisions in the Keystone state. She cited the 1974 case of Conway v. Dana as an example of how ERA had, in effect, backfired. In that case, the obligation to support children was declared to be the equal responsibility of both the divorced man and woman. Previously it had been the man's sole responsibility until the child's emancipation.

Pennsylvania courts have decided more cases than other states (25 since the ERA's passage in 1971); yet, according to Beck, these decisions have largely confined themselves to narrow issues. Beck did not expound on what she regarded as narrow issues, but she hinted that absent a strong showing of legislative intent, the courts were faced with a tough problem of interpreting the vague and novel amendment. However, Beck gave the clear impression that the court's problems of interpretation could have been overcome by a greater commitment to the cause addressed by ERA.

The Pennsylvania amendment (Art. I Para 28) declares: "Equality of rights under law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual." What it means in the various areas of domestic relations, Beck charged, is still unclear because the state legislature has remained silent.

A Partnership

"We need reform legislation to recognize the economic value of a mother staying at home," she said. The legislature has to assume that marriage is a partnership and that when the partnership is dissolved, the assets must be divided among the two partners.

These things have been dealt with by the courts, however, despite Beck's remark and despite the fact that she speaks in terms of a "morass of support statutes" in Pennsylvania.

Child support is now divided among the parents, formerly being the sole obligation of the father. The mother who is a homemaker receives credit for her work and, more importantly, her domestic work entitles her to a share in the household goods. This ruling is opposed to the previous rule which required that the woman show some clear evidence of ownership, such as a check stub, showing that she had paid for a particular household item.

In other areas of domestic relations, women have newly expanded rights. A wife now has the right to sue for loss of consortium in Pennsylvania, and a married woman may retain her maiden name or may change back to it after having assumed her husband's name.

These achievements have hardly satisfied Beck who steadfastly maintains that "to secure the woman's position, the courts have to spell out a lot more."

Greta Aul knows about the courts from firsthand experience. She has been going to law school while working for the Commission on Women (COW).

COW's Activities

Since 1973, when COW received a mandate from Gov. Milton Shapp, it has been in charge of overseeing the implementation of ERA and ERA-related legislation. COW has tried to encourage other states in their fight for equality of the sexes and has sent letters throughout Pennsylvania to the presiding judges of all the counties, "to let them know that ERA existed," Aul said.

Aul told the audience of a long drive to get the other state agencies to reconcile their policies with the dictates of ERA, an effort which has borne great fruit.

Aul mentioned that as a result of their efforts various directives had been issued by the Attorney General's Office, according women the rights, for instance, to be newspaper carriers, boxers, and wrestlers. Elementary school classes in physical education are now conducted coeducationally and females are now allowed to participate in interscholastic sports.

Many improvements have been made, Aul pointed out somewhat more optimistically than Beck. But COW has undertaken a project which dwarfs these accomplishments in scope.

Corrective Effort

By using the State's computer network, COW is attempting to put together a package of reform legislation to correct those statutes containing discriminatory references or which are discriminatory in effect. The effort is a gargantuan one.

First, certain categories were arrived at under the heading of certain words, which were fed into the computer. After it printed a thousand-page readout, COW narrowed the list to 23 categories and began sorting out the legislation which had no bearing on sex discrimination. Where an appropriate agency was involved, COW requested and got a report with an evaluation as to whether the law was being used and to what effect, and got the agency to make recommendations with a view to reform.

As it came up with reform bills, COW submitted them to a special committee of the Pennsylvania Bar Association for consideration of practicing attorneys. Aul said that the purpose was to determine what practical result the lawyers could foresee from a change in a certain law. The committee has been particularly helpful, Aul pointed out.

Purge of Purdon's

Recently, Pennsylvania lawmakers have gotten into the act. Aul spoke of an effort to organize **Purdon's Consolidated Pennsylvania Statutes,** so that all of the various statutes can be brought under categories more convenient to legislators than to West Publishing Co. She also spoke of it as an effort to "make Purdon's sex neutral."

In the printed matter which Aul distributed, it was made clear that ERA would not affect such areas as privacy, abortion, and homosexual marriages. Where privacy and abortion are at issue, the United States Constitution takes a front seat to ERA, according to COW.

As to what effect ERA may have in the area of Beck's concern, domestic relations, the literature is explicit in pointing out that it has not affected family stability or the divorce rate in Pennsylvania since its passage in 1971. (The divorce rate in Pennsylvania continues to be below the national average.)

Review proposes writing program

The **Law Review** has proposed a new open writing program. Under the proposed program an individual candidate for the **Review** would select one of two or three designated cases and prepare a shortened version of a casenote in the style of the casenotes regularly published by the **Review.** The designated cases would all deal with subjects covered in the first year and would be selected to present issues that can be adequately discussed in the shortened format.

Under the proposed program, students could begin the competition any time after the last day of exams up until one week after grades are distributed (probably the last week in June). Manuscripts would be due three weeks from the date on which the candidate begins. It is hoped that decisions regarding acceptance would be made by the second week in August. The proposed program, like the present one, would be open to second- and third-year students. This open writing proposal is presently awaiting faculty approval.

Guild lawyer cites grand jury abuse

By LORRAINE FELEGY

Holly McGuigan of the Lawyers Guild cited the case of Jay Weiner, among others, as an excellent example of grand jury abuse in a recent appearance at the Law School. Weiner is currently in federal prison for refusing to cooperate with a federal grand jury. He has never been accused of a crime.

Weiner's attorney had initially filed a motion to quash on due process grounds based on two theories. The first concerned the manner of service of process on Weiner. He had been headed off the road while driving, pulled out of the car and locked into a room by the FBI. He was then shown the shoulder holsters of the FBI agents and told that if he talked, the FBI would "take care" of the subpoena.

Given this treatment, Weiner revealed some of the information desired by the FBI, but the FBI agents did not hold to their end of the bargain. The judge in Scranton gave the FBI the benefit of the doubt concerning its behavior and never demanded that the agents who had confronted Weiner be produced.

Weiner's attorney also alleged harrassment in that Weiner had been subpoenaed on four separate occasions. But the judge held that four subpoenaes did not constitute harrassment.

Refused Personal Samples

Another case McGuigan cited relating to grand jury abuse involved Phil Shinnick. Shinnick was required by the grand jury to produce hair samples, fingerprints, and other personal items. He refused to do so and was incarcerated. Shinnick, in contrast to Weiner, received a great deal of publicity. The reason for his notoriety lay in the fact that he was a college professor, had been on the U.S. Olympic Team, and had been a captain in the armed services. A column was written

Who's got the last laugh now?

To the Editor:

It is extremely difficult to passively endure seven years of various and sundry exasperating occurrences without eventually verbalizing one's frustrations and disgust. Well, after more than six and one-half years at Villanova we can no longer contain ourselves.

When an incident is so overwhelmingly unjust, despicable, and even disgusting, as to reflect unfavorably (to say the least) upon the entire Villanova community, it is the duty of all who are aware of it to speak out. No one should entertain the belief that we decided to convey our views merely out of personal interest in this infamous matter.

We would have felt obliged to protest even if we had not been the ones against whom the injustice was committed, the ones who had to sit by unrecognized and unrewarded while some back room political wheeler-dealer basked in the limelight of the glory that we undeniably deserved. Imagine, Tony Tinary (SBA Vice-President, of course) getting the award for the most distinctive laugh in the third year class.

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Final teams prep for Reimel showdown

By JEFF LIEBERMAN

After months of competition, two teams have emerged from a field of 43 to advance to the final round of the Reimel Moot Court Competition. In the semifinal round held on Feb. 23, the team of Dennis McAndrews and James Guidera defeated Beth Weinstein and Michael Gallagher, and the team of Kimberly McFadden and Jane Seeger bested Carol Ann Meehan and Thomas Russo.

The final argument will be on April 16 at 2:00 p.m. in Rooms 29 and 30. The three-judge panel will consist of The Hon. William H. Rehnquist, assoc. justice of the Supreme Court of the United States; The Hon. Collins J. Seitz, chief judge of the U.S. Court of Appeals (Third Circuit); and The Hon. Morris Pashman, assoc. justice of the Supreme Court of New Jersey.

The law school recently received word that Justice Rehnquist may be unable to participate due to a back injury. He has been released from the hospital but is presently sitting only part-time on the court.

Lots Drawn

The McAndrews-Guidera team will represent respondent, a woman suing her husband for divorce. The teams were originally given a choice as to which side they wanted to represent, but after both chose respondent, lots were drawn.

Husband-petitioner has asked for alimony, since he earns but $3,000 a year while his wife takes in more than $50,000 as an attorney. However, a state statute forbids alimony payments to the male and thus the lower courts have denied this request. He has also sought custody of their young son and child support payments from his wife.

This request was denied on the basis of another statute which creates a presumption that custody of a child of tender years should be given to the mother. The husband appeals to the U.S. Supreme Court, alleging violation of his constitutional rights to equal protection and due process.

Jane Seeger (left) and Kim McFadden, who will argue as petitioner against the McAndrews-Guidera team.

Reimel semifinal winners, Dennis McAndrews (left), and Jim Guidera, who will argue for respondent.

"Just Another Judge"

Commenting on arguing before Rehnquist, McAndrews observed, "I'm going to try and ignore the fact that he's there. I'm sure he's a great drawing card but he's just another judge."

Guidera stated: "We've used quite a few of Rehnquist's dissents in our briefs and we wonder whether this might seem a little too cute. Probably we won't use his words in our argument."

Though generally pleased with the Reimel program, McAndrews confided to having misgivings about some of the judges being served drinks before the arguments.

"After all the hard work you do, it doesn't seem appropriate," he said.

According to Clinton Kemp, chairman of the Moot Court Board, a brief cocktail party before arguments is a long-standing tradition at the law school.

"We have to make things as enjoyable as possible for the judges," he said. "They're doing us a favor by participating."

Guidera had only praise for the program. "It was very well run and I've had a lot of fun," he said. "I'm looking forward to the finals. We're going to stick to our game plan and not be shifted by what our opponents do. We're grateful to have gotten this far."

McAndrews was less zealous, admitting, "I wouldn't do it again if I didn't get to the finals."

No "Special Strategy"

Representing the husband will be Kimberly McFadden and Jane Seeger. McFadden expressed optimism, explaining, "We think we have a strong case and really haven't planned any special strategy." She praised the program as an enjoyable experience and added, "I now feel pretty competent in the equal protection and sex discrimation areas and this has helped me with my classwork."

Both McFadden and her partner agreed that they were glad they had entered the competition. According to Seeger, "It's a valuable experience because, in changing sides, it increases your ability to be an advocate." "It was a lot of work," she added, "but it was worth it."

Commentary

It's all up to the judges

By JOHN FREUND

Oral argument before an appellate court can be as relaxed as an after dinner speech or as vexing as two dozen $64,000 questions. In contrast to a trial proceeding, the advocates before an appellate tribunal have limited ability to control, if not the substance, at least the flavor of the proceedings.

The mood, tone, and pace of the argument is largely dependent upon the court and whether it takes an active or a passive role in the argument. Similarly, whether counsel is arguing before a "dead court" — one that has not read counsel's briefs before oral argument — or a court that is thoroughly conversant with the issues of the case, has an important influence on the nature and quality of the dialogue between counsel and the court.

While jurists may debate the merits of how active or passive a role appellate courts should take in questioning counsel during oral argument, or whether briefs are more profitably read before or after oral argument, when the advocates are students the objective is to produce the best argument, not the best decision on the merits. There is no question but that the most exciting, most crowd-pleasing, and most intellectually rewarding approach is a vigorous, incessant probing by the bench of a every nuance and ramification of a student advocate's position.

A Triumph

Measured by this standard the recent Reimel Moot Court Semi-Final argument pitting Beth Hunter Weinstein, '78, and Michael Gallagher, '78, petitioners, against Dennis C. McAndrews, '78, and James F. Guidera, '78, respondents, was a triumph of moot court appellate advocacy.

In this year's Reimel problem a divorced father was denied the custody of his infant son by operation of a Villanova statute providing that absent a showing that she is unfit the mother is to be awarded custody of a child of tender years. Another Villanova statute, which provided alimony for the wife only, denied alimony to the husband-petitioner in this case despite the fact that he earned only $3,000 a year as an artist while the wife-respondent was an attorney with a $50,000 annual salary. The argument is set before the U.S. Supreme Court where the husband is challenging the validity of the two Villanova statutes on equal protection and due process grounds.

Hearing the argument was a panel of three eminent jurists: Judge Edmund B. Spaeth of the Pennsylvania Superior Court, Judge John B. Hannum of the United States District Court for the Eastern District of Pennsylvania, and Judge J. William Ditter, Jr., also of the United States District Court for the Eastern District of Pennsylvania.

Judge Spaeth, sitting as chief justice for the Reimel argument, was the only bona fide appellate judge, although his past experience as a trial judge was betrayed by his jealous concern with the factual circumstances of the case. With his high forehead and stern expression, the Pennsylvania Judge bears a tantalizing resemblance to the rustic but dignified pitchfork-holding figure in the famous painting "American Gothic."

In accordance with the image of his famous look-a-like, Judge Spaeth's style was unadorned, simple, and to the point. For most of the argument he sat back in his chair with a pencil held loosely under his chin. His questions came frequently and with effortless spontaneity. With an unassuming "Why?" he could transform the most self-certain advocate into a head-scratching, stuttering supplicant.

However, the judge evidenced little patience with the irrelevant or the unsubstantiated argument. At one point he preempted McAndrews who harangued the court on the mountain of scientific data supporting the young child's emotional need for mothering. Said Judge Spaeth curtly, "'Fiddle dee dee on the mountain of data!"

In contrast to the succinctness of Judge Spaeth, Judge John Hannum's questions often incorporated explanations of the law or illustrative anecdotes. In one instance, when Gallagher argued that custody statutes should be sex neutral, Judge Hannum chimed in with a short discourse on the "chivalric tradition" in America.

As a humorous illustration of American ambivalence in matters of chivalry, the judge related a story about the late mayor of Philadelphia, Richardson Dilworth, who, as Judge Hannum said, preferred travel on foreign flag ocean liners because in the event of trouble at sea, "There was none of that nonsense about women and children first."

Aside from being an effective raconteur, Judge Hannum displayed a keen sensitivity for dignity and formalism in court when he admonished one advocate for referring to Supreme Court Justice Rehnquist as "Rehnquist" instead of "Justice Rehnquist."

Ditter Gives Advice

Judge Ditter, a stocky white-haired gentleman with an unmistakable judicial presence, remained reticent for the most part during petitioner's argument but jumped whole-heartedly into the fray when respondents urged the validity of the Villanova statutes sex biased

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Michael Gallagher answering a question posed by the Hon. Edmund B. Spaeth, judge of the Superior Court of Pennsylvania, in the semifinal round.

No ads

(Continued from page 2)

with the bans on professional advertising. The court held that pharmacists may advertise their prices on prescription drugs. However, in dictum, the court said that there may be distinctions among professions. Lawyers, unlike pharmacists, are not dispensers of standardized products. Hence, the outcome of **Bates v. Arizona** cannot be predicted.

Profession Divided

Meanwhile, the legal profession continues to be divided. At least three main theories exist. The traditional ABA approach forbidding avertising is one. At the opposite extreme is the approach of the Barristers' Club of San Francisco maintaining that all advertising is fine, as long as it is not false. A middle ground is based on the FTC model: advertising must not be deceptive, unfair, or in bad taste. This is the approach of Stephen Shaiman.

Chafing at traditional restraints has taken other forms than direct challenges. Legal clinics have sprung up, such as the Jacoby-Myers Clinic in California which features quality, moderate prices, and easy accessibility. Nevertheless, it is the direct challenge which will determine whatever real changes there may be in the freedom of lawyers to advertise.

Fitzpatrick Forum

(Continued from page 1)

to be in rehabilitation programs for relatively minor offenses."

"The system," he said, "has been deluged with an awful lot of social evils which are called crimes that really just can't be handled in the same fashion. In the future, we will encourage the diversion of these people from the system into decent rehabilitation centers. Of course, everybody wants these institutions but nobody wants them in their backyard."

The D.A. noted the success of a drunken-driving rehabilitation program in keeping out of the courts many cases that would tie up courtrooms and reach the exact same result. "The run-of-the-mill drunken driver is put into a special program," Fitzpatrick said. "He goes to drunken driver school and learns to be a more careful drunken driver."

On a question as to the public image of the District Attorney's Office getting out of hand, Fitzpatrick remarked, "My predecessor (Arlen Specter) had an extremely visible public image. But his public figure usually wasn't about the D.A.'s Office, but about his political future." He noted, however, that the duties of the office aren't extremely public in nature. "I haven't run it as a public office," he said. "I just happen to be a public image guy."

Cites Success

Fitzpatrick commented that his victim-witness program has been a tremendous success. The program, designed to promote greater public cooperation with the criminal justice system, provides services such as babysitting and transportation for persons who must appear in court. In addition, witnesses are put on call so that they don't have to waste time in courtrooms when they're not needed.

As to employment with his office, Fitzpatrick said that about 30 second-year law students are hired each summer and put through an intensive 10-week course. "We even ride them around in a police car," he noted. "Maybe they're lucky enough to see the cop hit somebody on the head. That's usually the big thrill of summer interns."

Grand jury abuse

(Continued from page 5)

about him in the **New York Times** to which U.S. Att'y General Edward Levy responded. **60 Minutes** offered to interview Shinnick in jail.

As a result, a press ban was put on both Shinnick and Weiner. Shinnick was subsequently released because of the adverse publicity received by the government. The government explained his release by stating that the samples originally sought were no longer needed.

Procedural Tactics

McGuigan, who has been doing grand jury work since the spring of 1975, discussed some procedural tactics to be used when a client refuses to go before a grand jury. As to pretrial motions, she suggested that careful thought be given to them. All possibilities should be used, but an attorney should be realistic about the chances of success. To delay having a client go to jail for refusing to testify, an attorney should litigate and get stays pending appeal, but appeals shouldn't be filed too early before the deadline date or too late. The case of Weiner is a good example of the success of such delay tactics. Weiner was subpoenaed in May, but did not go to jail until seven months later. An attorney should warn a client about the sanctions that will be taken for refusing to testify. An adverse witness could go to jail for the life of the grand jury, which generally runs for 18 months.

There are other interesting facets of grand jury practice and procedure. For example, there is no Fifth Amendment privilege against surrendering samples taken from parts of your body. The only Fifth Amendment privilege a grand jury witness has goes to testimony.

Also, a witness' attorney cannot be in the grand jury room while the witness testifies. Neither are non-essential people such as Federal Bureau of Investigation agents, but they frequently are present. Anyone required to be a witness has the right to ask everyone in the room his name and purpose for being there.

Faith Whittlesey, Republican councilwoman from Delaware County, addressing the Law Forum.

The self and politics

By BARBARA BODAGER

Faith Whittlesey, Republican Delaware County councilwoman, spoke to the Villanova Law Forum recently on the subject of "Politics, People, and Local Government."

Whittlesey, a widow with three children, graduated from the University of Pennsylvania Law School in 1963. At that time women were not readily accepted into law firms and legal circles. As a result, Whittlesey's first job after graduation was that of a high school teacher in South Philadelphia.

She changed courses and became a special assistant in the amending of the Pennsylvania Banking Code. Whittlesey then worked in the U.S. Attorney's Office, and was a state representative for three years.

To Rebuild Confidence

Her goal as a councilwoman is to rebuild confidence in the Republican Party in Delaware County. Whittlesey is very dedicated to this cause, but she finds political life very exhausting. She prefers her present office over that of a state representative, however, because her office is set up to assist municipalities, with no real government power. However, this position leads to indirect influence in choosing political leaders.

Whittlesey's basic philosophy is that of taking every institution possible out of governmental control and placing responsibility in the private sector and the family. For example, she very much disagrees with the current Civil Service approach to hiring and firing within the government.

In the Civil Service, once one is hired, it is practically impossible to be fired. There does exist a grievance proceeding to fire people, but the time and energy necessary to run the system makes any attempt to fire almost useless. Basically, Whittlesey favors a patronage hiring system, but she does realize the danger of abuse.

Fields Complaint

During the meeting a man expressed his complaint as to Delaware County's recent conversion from municipal incinerators to private trash hauling. The federal Environmental Protection Agency (EPA) has informed Delaware County that these incinerators do not meet present environmental standards.

Whittlesey said she was concerned that after the taxpayers' money was spent on upgrading these incinerators, the EPA would attempt six months later to enforce even stricter standards. Because of EPA's inability to insure that the upgraded incinerators would be in conformance for a particular and reasonable period of time, Whittlesey has solved the problem by taking this function out of the governmental control and placing the responsibility with the private sector.

Garey Hall sloppy in Rugby loss

By JEROME GILLIGAN

The Garey Hall Rugby Club opened its spring season March 12 by losing to a strong Temple Med team, 34-3. Due to a heavy turnout of first-and second-year students the club was able to field three teams for the first time in its illustrious history.

Captain Bob "Knock On" Goldman, though extremely pleased with the interest and the support of the fan club, headed by Fred Alexandre, was less than happy as his "A" team went down to defeat.

The team was never able to mount a sustained offense as experienced Temple capitalized on Garey Hall's sloppy tackling and numerous misplays to spring its backs for many long runs which led to their scores.

The second game was a hard fought battle as Temple's "B" team managed to score one unanswered try and a successful conversion to hang on for a 6-0 victory. Armadillo C. Reich stood out for Garey Hall with his inspired leadership and play.

Armadillo, the fans' favorite both on and off the field, stunned his ardent followers by announcing after the game that he plans to retire at the end of the season due to medical problems. His quick wit and knowledge of the game will be sorely missed by all associated with the law school legend.

"C" Team Wins

In the final game Garey Hall managed to avoid a whitewash for the afternoon as the "C" team, a mixture of newcomers and recent graduates, was impressive in a 10-0 victory.

Judge Bazelon keynotes conference

(Continued from page 1)

In response to this criticism, Richard L. Bazelon, a Philadelphia attorney and son of Judge Bazelon, who also participated in drafting the Act, asked, "What's the right to enjoy life — to spend the rest of their life in an institution? I do not understand what there is in this Act," he continued, " that would require you or any other psychiatrist to practice defensive medicine. I find it very hard to understand how you or any other doctor can take the position that you automatically recommend extended commitment regardless of the facts of the case."

Difficult to Interpret

A discussion leader who spoke on the second day of the conference, Dr. Terry C. Ferr, general medical director of the Rockview State Institution, asserted that the Act was difficult to interpret by those responsible for implementation and that there may be too many loopholes.

At the conclusion of the conference one of the discussion leaders, Dr. Melvin S. Heller, director, Division of Forensic Psychiatry, Eastern Pennsylvania Psychiatric Institute, was asked by **The Docket** to generally comment on the discussions.

"The single most important issue in this conference," he replied, "was the need to provide due process considerations for mentally ill persons who are involuntarily deprived of freedoms; and the examination of procedures based upon this really constitutional right of mentally ill persons involves looking into how the observance of these due process rights would affect the health delivery services."

When asked his opinion as to the effectiveness of the Act for the future, Dr. Heller responded: "I think that there will be amendments to the Act and changes in the regulations and interpretations of the Act that will iron out some of the seeming difficulties. I have considerable faith in the Act despite the tremendous amount of concern it has caused among some clinicans."

Prof. Donald W. Dowd, the director of the Institute for Correctional Law at Villanova, decided upon "the mentally ill offender" as the topic for the Institute's eighth conference because of the subject matter's timeliness in light of the recent passage of the Pennsylvania Mental Health procedures Act and the current Pennsylvania legislative investigation at Farview State Hospital.

It's all up to the judges

(Continued from page 6)

classifications. Moreover, Judge Ditter, obviously an experienced parent, didn't hesitate to interject a bit of advice on child rearing to an audience composed largely of young adults as is evident from the following exchange with McAndrews:

McANDREWS: Given what we know about the role of mother and child, the prevailing view in the states and in the scientific community is that the role of mother is indispensible for the normal upbringing of the child. ...

JUDGE DITTER: . . . That's really not the test in this case . . . this mother doesn't propose to raise this child; this mother proposes to have a housekeeper raise the child . . . How can you say that this statute is supportable on the mountain of data you have about mothers when this mother isn't going to do the job?

McANDREWS: The mother is going to do the job.

JUDGE DITTER: She's going to do the job maybe weekends and after six o'clock and before seven o'clock in the morning.

McANDREWS: That's a substantial part of of the raising.

JUDGE DITTER: You'll find that when you get a little older, you'll find that some children sleep after six o'clock at night

McANDREWS: I sleep ahhh . . .

JUDGE DITTER: I can give you some empirical data on that.

The judges' final decision that McAndrews and Guidera would advance to the finals was by their own admission a difficult one. Indeed, the advocates were so well matched that the judges had to dig deeply into the briefs to find a supportable basis for their decision. With such a high caliber of performance by student counsel such hair splitting on the technical points undoubtedly masked a substantial subjective judgment as to which team displayed the superior advocacy talents. The individual preferences of the judges play a large role.

The judges candidly admitted during their critique after the argument that what some of them found a compelling line of argument others found pompous drumbeating. Thus, while judges in a moot court setting where they need to evaluate only the advocacy ability of counsel and not the merits of their positions, may honestly acknowledge that personality plays a role. But to what extent the law made by appellate courts is a matter of personality remains a question for speculation.

A reporter at large

At one point in **The Kingdom and the Power,** a book about the **New York Times,** author Gay Talese, described a *Timesman* and related how, ". . . there were times when the executive pressure and office politics had made him nostalgic for the reporter's life, particularly when the stories were good." Although **The Docket's** editorial board generally does not turn over until the absolute conclusion of the spring semester, in the interests of the effective transition of power and the sentiments expressed above by Gay Talese, this writer has once again opted for the reporter's life.

The Docket is very much in a state of flux. The past seven months and five issues have been more of a learning experience than most people would realize from the finished product. Participating in the management of a newspaper has been an extraordinary experience. Things did not always go smoothly, we had our share of turmoil and personality conflicts and made our share of mistakes. Some of the editorials that were written at three o'clock in the morning just did not look as good at three o'clock in the afternoon.

Our Local Correspondents

Notwithstanding any of the problems that were encountered, I feel extremely fortunate to have worked with some exceptionally well-motivated and competent law students, faculty members, and other members of the law school community. Moreover, it was because of these individuals that **The Docket** was able to accomplish several things.

The Publishing Scene

This year's staff represented the largest group of students who contributed to the newspaper in its 14-year history. Our first issue in the Fall semester was the earliest complete issue printed in the school's history. The 12-page issues that have been published contain more news than any individual issues that have ever been published. And this academic year will witness the publication of six issues, almost one every month, which is more issues printed in one year than in any other previous year. We also have been implicitly responsible for the demise of the proposed alumni newsletter. Although this

may sound like a campaign speech, students do have a right to know how a few thousand dollars of their money is being spent.

Letter From Garey

Although there is enormous potential for a few individuals to affect the processes of journalism at Villanova, the most grievous error that members of the law school community could make would be to identify the newspaper too closely with particular students, because as Prof. Rothman would say in an analogous context, it's only the tip of the iceberg. **The Docket** has been transformed essentially into everyone's newspaper. Articles and comments from outside of the newspaper staff constituted a particularly substantial contribution to the nature of the publication. And the only way that this will persist is if students, faculty members, alumni and others continue to perceive the quintessential basis of **The Docket** in light of a desire to create something outside of an immediate academic experience.

Reflections

Although individuals should consider getting involved and spending some hours in student organizations and extracurricular activities which provide an effective escape from and complement to academia, cutting too many classes, preparing too few assignments, and borrowing too many outlines isn't too much fun either. If law school does anything it necessarily creates conflicts as to what you really want to do with the little time you have.

A Reporter in Lambeth

But for those of you who may feel inclined, an edited excerpt from the preface of William Blake's "Milton" may provide some inspiration.

> Rouse up O Young Men of the New Age! Set your foreheads against the ignorant Hirelings! For we have Hirelings in the Camp, the Court and the University; who would if they could, forever depress Mental and Prolong Corporeal War. Painters! on you I call! Sculptors! Architects! Suffer not the fash(i)onable Fools to depress your powers by the prices they pretend to give for contemptible works or the expensive advertising boasts that they make of such works; believe (. . .) that there is a Class of Men whose whole delight is in Destroying. We do not want either Greek or Roman Models if we are but just and true to our own Imaginations, those Worlds of Eternity in which we shall live for ever. . ..

— John Halebian

Tax bill called too complicated

(Continued from page 3)

gress singled out what they felt abuses or areas most in need of modification. The process then involved interaction between the government agencies and the various affected interest groups and finally a bill. "A lot of people as late as last July believed that there never would be a Tax Reform Act of 1976," Wiesner said.

When asked how working with the TLC in the Treasury Department compares to working in a private law firm, (Wiesner worked in the tax department at Morgan Lewis for 4-1/2 years, handling a variety of tax matters that a large firm practice generates.) Wiesner stated that, "Basically you deal with the same type of legal problems. However, at TLC you handle tax policy matters in the context of the general public interest and often before the matters are public knowledge."

"In private practice, on the other hand, you are trying to plan transactions to yield the most favorable tax treatment for your client. Often, you deal with questions only after the government has made an initial policy decision and you must structure your transaction to satisfy this decision." Wiesner contrasted this to certain firms in Washington, D.C., which do deal on a continuing basis with the government on legislative proposals and tax regulations.

When asked about the practice of most people to leave government work and return to private practice and the potential conflict of interest problems, Wiesner answered that undue limitations on leaving the government for private employment would cause many qualified people not to join the government at all and thus may eliminate one of the government's sources of tax talent.

Also, he believes that the conflict problem is not as severe as that for regulatory agencies such as EPA. In working on tax issues "you are dealing with substantative legal issues and are more removed from identification with the problems of an actual taxpayer."

Working at a highly visible stage of tax policy consideration appeals to Wiesner. "From a young tax lawyer's point of view, working in the Office of Tax Legislative Counsel is a unique opportunity," he said. However, because of the work load it is essential to have four or five years of tax experience before going there. You have to deal with numerous areas covering a wide range of responsibility."

Interestingly, Wiesner's metamorphosis to a tax lawyer was a long, hard process. When he was in law school (he went to Columbia, after obtaining an undergraduate degree at Seton Hall) his faculty advisor said to take as many interesting courses as he wanted. So he signed up for Urban and City Re-building, Law and Psychoanalysis, and other similar courses.

However, his advisor then strongly urged him to take such substantative courses as Federal Income tax. Taking the course grudgingly, what appealed to Wiesner was that tax is a very substantative area of the law. "You must carefully analyze the statute, regulations, case law and IRS interpretations. It requires methodical analysis; it's a very meaty area of the law," he commented. Wiesner concluded the interview with the two following comments. "First, if you want tax experience in the government right out of law school, he recommends the national office of IRS or Regional Counsel's Office, a Tax Court clerkship, or the tax division of the Justice Department.

Second, his thoughts on the current administration are optimistic. The new Assistant Secretary for Tax Policy is Dr. Laurence N. Woodworth, formerly Chief of Staff of the Joint Committee on Internal Revenue Taxation. Dr. Woodworth has tremendous breadth of experience and will work to implement President Carter's campaign promise of tax simplification. "He (Woodworth) has the ability and the necessary experience with the Congress to accomplish the President's goal," Wiesner stated. "It should also help make the process much smoother that there is a Democratic President and Congress so that Treasury, the Joint Committee on Internal Revenue Taxation and the IRS should be working toward the same goals."