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Sarbanes and Beall: Interviews with Maryland's Senatorial Candidates

Thomas Basham

Barbara Solomon

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Interviews with Maryland's Senatorial Candidates

The Forum Law Journal conducted interviews with the Republican and Democratic candidates for United States

Senate from Maryland. The opponents, incumbent Senator J. Glenn Beall, Jr. (R) and Representative Paul S. Sarbanes (D., Maryland 3rd Congressional district) were questioned separately in their Congressional offices in Washington, D.C. Each candidate was asked essentially the same questions. Senator Beall was elected to the U.S. Senate in 1970, after serving one term in Congress as a member of the House of Representatives. Before his election to national office, he was a member of the Maryland General Assembly for six years. The Senator, a 49-year-old native of Frostburg, Maryland, is a 1950 graduate of Yale University.

Congressman Sarbanes, currently completing his third term in the House of Representatives, served in the Maryland House of Delegates from 1966 to 1970. He is 43 years old and was born in Salisbury, Maryland. Congressman Sarbanes is a 1954 *magna cum laude* graduate of Princeton University and a 1960 *cum laude* graduate of Harvard Law School. He attended Oxford University in England on a Rhodes scholarship from 1954 to 1957.

Senator Beall was interviewed by Features Editor Barbara Solomon; Congressman Sarbanes was interviewed by Features Editor Tom Basham.

PAUL S. SARBANES: Interview

by Thomas Basham (Sept. 14, 1976)

photo by Tom Basham



Forum: The first series of questions concerns ethics—legal ethics in particular. Would you be in favor of some kind of federal legislation to enforce legal ethics, or do you think the system is working the way it's set up now, i.e., self-policing?

Sarbanes: I've never considered federal legislation and my initial response to that would be a negative reaction. It seems to be that the policing in large part has to be done by the bar itself and by the courts. After all, lawyers are ostensibly officers of the courts and you're really dealing, in a sense, with the third branch of the government in that respect, with the judiciary. That's not to say you can't

legislate in that area, but it seems to me the emphasis ought to be on a greater effort by the bar itself with respect to legal ethics.

Forum: Do you think the system works the way it is now?

Sarbanes: Oh, I think there are problems, but I notice there's been state legislation and, in some areas, really rather major efforts on the part of the bar to set its own house in order.

Forum: Do you get mail from your constituents on the subject of legal ethics?

Sarbanes: We occasionally get complaints from people in terms of their dealings with lawyers, and we always refer the people to the bar association grievance process.

Forum: Any suggestions for legislative action to get lawyers into line and enforce legal ethics?

Sarbanes: As I've indicated, my own preference would be that the bar itself take more effective measures to govern the conduct of its members. The bar is not without remedy in that regard because they can go to the courts and have punishment, including disbarment, meted out to lawyers.

Forum: Do you think that's enough, in the context of the effect of Watergate on the reputation of lawyers and legislators?

Sarbanes: Enough in what sense?

Forum: Enough in the sense that . . .

Sarbanes: I think that a lawyer being disbarred is a pretty serious penalty. Now if he's also committed a criminal violation, I assume he'll also be prosecuted under the laws.

Forum: Seems like lawyers were the culprits in Watergate. They were the bad guys.

Sarbanes: They also were the good guys. Don't ever forget that Judge Sirica is a lawyer, Sam Ervin is a lawyer, Peter Rodino is a lawyer, I'm a lawyer, all the other members of the judiciary committee are lawyers, John Doar is a lawyer, Albert Jenner is a lawyer. So it's true that some of the culprits, some of the bad guys, were lawyers, but a number of the good guys were lawyers, too.

Forum: Do you think that people, your constituents, expect too much from legislators? I mean do they expect legislators to do things that they themselves should do? Do they pass the responsibility on to their elected officials?

Sarbanes: I think people are facing very tough problems nowadays, and to some extent they are angry and frustrated. They face problems of jobs, and inflation, and a fair tax system, and interest rates that are so high that young people can't afford homes, and health care problems, and the problems dealing with government, and they come to us with those problems. I've tried throughout my service in the Congress to respond, and to respond positively, and I think my constituents feel that I've done a good job in that regard. There are a lot of demands, but you respond to them by working even harder and with a greater sense of commitment to the public trust that you've assumed.

Forum: I know that the members of congress work hard at their jobs. Do you think that people expect Washington to do things in their own lives that they could do themselves—to find me a job, for example. Is it a legislator's responsibility to find jobs for his constituents, or is it the constituent's responsibility?

Sarbanes: I think it's the responsibility of policy making to carry out policies that will result in a strong, vigorous economy. That's distinguished from finding each individual person a particular job. People have to embark on that search

themselves. If they come to us with that problem, we try to be helpful. If there's any way that we can legitimately be helpful. (long pause)

Forum: Did you want to say something else?

Sarbanes: I think that covers it.

Forum: On the problem of congestion in the courts, do you think the federal legislation now in effect—the Speedy Trial Act—is sufficient, or does there need to be more federal action?

Sarbanes: Well, the first thing we have to do is implement the Speedy Trial Act, which means providing the resources which its implementation requires: additional court personnel and additional court facilities. You need to make the laws we have work and then see what impact that has on the situation. I supported strongly the Speedy Trial Act and I support making the resources available that are needed in order to make it effective. I think a speedy trial is an important part of a just trial—both for the individual accused and for the society.

Forum: In the criminal justice area, do you favor a mandatory death penalty?

Sarbanes: I think you can use the death penalty, but I think it's preferable in those limited situations when people have already been given a mandatory life sentence and are then involved in a further killing in trying to escape from or avoid somehow the mandatory life sentence which has been imposed upon them. It seems to me the most effective deterrent is a high likelihood that the person committing a criminal offense will be apprehended, speedily tried, convicted and severely punished. We need to focus on that question of apprehension, trial and conviction.

Forum: Do you favor mandatory sentences?

Sarbanes: In certain instances, yes. I favor mandatory minimum sentences

for the commission of a crime with the use of a gun, for example. I favor mandatory sentences for certain repeat offender situations. I would obviously favor a compulsory life sentence with no opportunity of returning to public life in the instance of very serious crimes. I think the punishment has to, in a sense, be severe where that's called for and merited.

Forum: And, finally, what is your position regarding no-fault insurance.?

Sarbanes: Well, I've indicated that I think we should consider that concept at the federal level. It's a complicated matter and any legislation would have to be very carefully worked out in terms of any standards it may involve. And we need also, of course, to look at the state experiences and draw some lessons from those. Now some of those lessons, or some of those experiences, have not lived up to the expectations that were initially broadcast on their behalf. So I think we need to take a careful look at what the state experiences have been and see what kind of sensible piece of legislation would evolve from that.

Forum: Okay?

Sarbanes: Okay.

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J. GLENN BEALL: Interview

By Barbara Solomon (August 30, 1976)

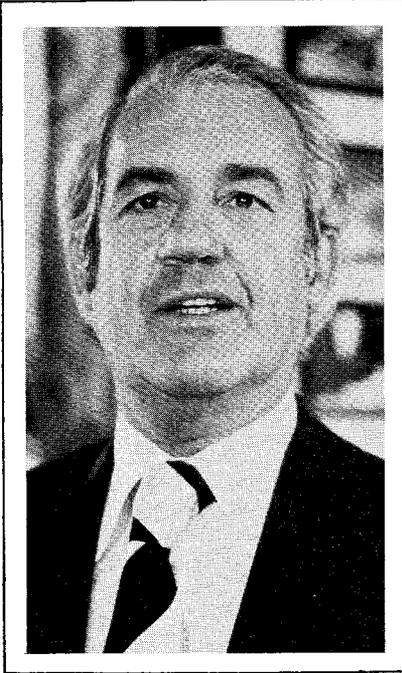


photo by Tom Basham

Forum: Do you feel there is a need for federal legislation with regard to legal ethics or is there a sufficient amount of self-policing within the profession?

Beall: I don't, at the present time, see a need for federal legislation, but I have not looked into the idea as deeply as I might because it has never been before us or before the committees of which I am a member. I have always felt that although the legal profession may be self-policing, it sometimes tends to be self-protective also; I would like to see the legal fraternity be a little more aggressive in ferreting out those who do not live up to the code established by the profession, so that we don't someday come to some sort of federal licensing or federal control. They have the same problem in the medical profession, except in the medical profession it's worse because there doctors are receiving federal funds for services they have delivered.

Forum: So you feel that while the legal profession is doing its job, it is not doing it to as great a degree as you would like?

Beall: My superficial impression is that the legal profession could be a lot more aggressive in the job of policing itself.

Forum: What effect has Watergate had on the reputation of lawyers and legislators, and do you feel there has been an adverse effect on lawmaking ability?

Beall: I don't think it has had an adverse effect on lawmaking ability, but I think probably Watergate has caused those of us who were in the legislative business to change some laws relating to campaign financing and to conflict of interest type situations. Actually we have worked to try to establish the role for the Justice Department to play in providing some oversight in making sure that there is a prosecutorial arm that can go around and investigate and dig up examples of misfeasance or malfeasance in public office. I don't notice an adverse effect on the legal profession. The lawyers involved were not acting in their professional capacity; they were acting probably in another capacity. This does not excuse them as professionals or otherwise for their indiscretions, but I feel Watergate reflects more on those in the political arena than it does on lawyers.

Forum: Do people expect too much of legislators, especially with regard to legislators who also happen to be lawyers?

Beall: No, I don't think so. As I am not a lawyer, I can't say what lawyers feel, but I do not think people expect too much of their elected officials. I think they expect them to devote their energies and abilities to the job for which they were elected in a forthright and honest manner and that is certainly not expecting too much of anybody.

Forum: Do the legal profession's Canons of Ethics provide the lawyer legislator with a greater responsibility than that imposed upon the layman legislator?

Beall: I don't think so, but I was not aware that the Bar Association in its Code had a section on legal ethics.

Forum: Concerning the ever-increasing problem of congestion within the judicial system, from the time of filing suit to the final disposition of the matter, do you believe there is a need for federal legislation?

Beall: I voted for the Speedy Trial Act. One of the problems in our criminal justice system relates to the lack of speed with which the system operates, and therefore we should try to establish some timeframe within which cases are heard, without taking away any individual's rights. It seems to me, as a layman, that in too many cases the law is being used as a means to avoid getting a decision on a matter, rather than as a means to bring about the expeditious treatment of whatever happens to be before the court.

Forum: What is your stand on no-fault insurance on the federal level?

Beall: I have favored the concept of no-fault, but I believe it should be implemented on the state level, if implemented at all. First of all, I don't think we have enough experience with no-fault yet to be able to tell the public that this single particular system is going to work, save money, and broaden a person's opportunities to obtain insurance. Over the last couple of years the states have been making some progress. About 25 states have various forms of no-fault laws and this is an increase of 11 or 12 states from a year and a half ago. Some states have had some rather bad experiences with no-fault. From Michigan we have received an indication that the price of insurance has increased and that the availability of insurance has been restricted somewhat; it has not worked the way people thought it was going to work. So, under those kinds of circumstances, I am very reluctant to impose a federal system on the states, and I also have an aversion to federal control. It is all right for the federal government to threaten to get the states to act, but once the states start acting, then it is no longer necessary to take any federal action.

Forum: Is there a need for more laws relating to crime, or do you contend the laws we have presently are just not stringently enough applied?

Beall: Perhaps the laws are not stringently enough applied; I am led to believe that perhaps we should have some mandatory sentences. I introduced a crime package last week, only applicable to federal law, in which I suggested that we ought to expand pre-trial detention so that the judge could detain people in non-capital cases as he can in capital cases at the present time. The only tool a judge has now is to impose an exorbitantly high bail requirement, which in itself is constitutionally questionable. Therefore, I think there should be another means for a judge to detain someone if he considers that person to pose a threat to an individual or to the community. I also proposed that we have specified penalties for specified crimes—minimum sentences for the crimes of burglary, robbery, racketeering, dope trafficking and murder. We would also add a year to the sentence of any of these crimes committed with a firearm. I also have called for reinstatement of the death penalty for treason, espionage and murder. A bifurcated system would be used whereby there would first be a trial for the determination of the guilt or innocence of the person, and then there would be a hearing to determine whether the death penalty should be imposed. There would have to be a list of aggravating and mitigating circumstances, so as to hopefully meet the guidelines which the Supreme Court has imposed.

Forum: So your bill would provide for some leeway in the case of crimes punishable by death, but no leeway with certain other crimes.

Beall: There would be some leeway with crimes punishable by death but there would be some mandatory minimum sentences with certain other crimes. In those crimes, the person would be eligible for parole, but mitigating circumstances would not entitle him to a suspended sentence.

University of Baltimore SBA Places First Nationally As "Most Outstanding Student Bar Association"

by Byron L. Warnken

"Law Day U.S.A." Program Awarded National Championship for Second Consecutive Year

The University of Baltimore School of Law has been named the recipient of two first place national awards at the annual convention of the American Bar Association, convened in Atlanta, Georgia, August 5-12, 1976.

A total of three awards were presented to the University of Baltimore at the awards banquet of the Law Student Division of the ABA. These honors recognized the University of Baltimore, in competition among the 163 ABA approved law schools, as: (1) the first place national winner as "Most Outstanding

Student Bar Association" among law schools with enrollment over 1,000 students, (2) the first place national winner, for the second consecutive year, for "Best Law Day U.S.A. Program" among law schools with over 1,000 students, and (3) the first place circuit winner, for the third consecutive year, for "Best Law Day U.S.A. Program" among all law schools in Maryland, Pennsylvania, New Jersey, and Delaware.

Accepting the awards on behalf of the law school were Paul G. Jemas, president of the day division of the Student Bar Association; Byron L. Warnken, president of the evening division of the SBA; Anthony R. Gallagher, 1976-77 ABA/Law Student Division representative and chairperson of the Law Day U.S.A. program; and John A. Currier, 1977-78 ABA/LSD representative.

BEST SBA

The "Most Outstanding Student Bar Association" award was based upon a 120 page document, which outlined in detail the successes and failures of the twenty areas of activity within the SBA. These included, among others: participation in ABA/LSD activities, Law Day U.S.A. program, weekly public affairs radio broadcasts entitled "You and the Law", weekly speakers programs, orientation program, honor system (honor code, honor court, board of preliminary



Left to right: Byron L. Warnken, Paul G. Jemas, Anthony R. Gallagher.