



---

The Docket

Historical Archives

---

3-1-1965

## The Docket, Issue 3, March 1965

Follow this and additional works at: <https://digitalcommons.law.villanova.edu/docket>

---

### Recommended Citation

"The Docket, Issue 3, March 1965" (1965). *The Docket*. 7.  
<https://digitalcommons.law.villanova.edu/docket/7>

This 1964-1965 is brought to you for free and open access by the Historical Archives at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in The Docket by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.



## Annual Advocates Ball Held at Falcon House

On March 20th, the Student Bar Association presented the annual Advocate's Ball, the foremost event on the social calendar of the law school. Instead of the traditional evening of dancing, the student representatives formulated plans for a dinner dance at the Falcon House, on West Chester Pike, in Havertown, Pennsylvania.

The dinner dance was initiated at the request of the majority of our students who wished to replace the annual fall dance, and the Spring Law Day Banquet, with a more enjoyable evening for both the law student and his date.

The schedule for the evening; a cocktail hour from 6:00 to 7:00 P.M.; dinner served from 7:00 to 9:00 P.M.; and dancing to the music of Michael Travis and his orchestra until 1:00 A.M. As in the past the highlight of the evening was a speech by Dean Reuschlein and his presentation of the academic achievement awards.

The cost of the dinner dance was subsidized by the Student Bar dues plus an added fee collected by the representative of each class. There were no out-of-pocket expenses on the part of the students on the night of dance. All gratuities and an open bar for the evening was included in the price of the ticket for the dance.

## Motorists Foiled By Wildcats' Cheatproof Meter

A newly patented parking meter that automatically turns back to zero when a car pulls out is expected to be a real foe of the motorist seeking to freeloan on someone else's vehicle.

The meter sends out ultrasonic pulses every so often toward the parking area beside it. If a pulse, reflected back to the meter, reports that a car is no longer present, the meter will go back to zero.

This jack-of-all-trades meter, which earned patent 3,166,732 for Nils Ljungman, Narberth, Pa., and James E. Brown, Jr., Philadelphia, Pa., also packs a number of other surprises. When the vehicle's parking time is up, the meter will signal for a policeman. If someone tampers with it, the meter will also signal for a policeman. In addition, the meter will send out a signal to let cruising drivers know when a parking space is available. Nils is a first year student at the law school.

## Law Review Holds Colloquy April 2; Fuller, Cohen and Dworkin Speak



(L. to R.) Pres. Klekotka, Hon. Raymond P. Shafer and Hon. Theodore L. Reimal.

"The Morality of Law," a colloquy sponsored by the Villanova Law Review, will be held April 2nd at 8:30 P.M. All interested parties are invited.

Featured speakers will be Lon L. Fuller, Carter Professor of General Jurisprudence, Harvard Law School; Professor Marshall Cohen, Professor of Philosophy, Yale University and Professor Ronald Dworkin, Professor of Law, Yale Law School.

### Purpose Outlined

"The purpose of the colloquy," reported William B. Freilich, Editor-in-Chief of the Law Review, "is to further explore the ideas presented by Fuller in his recent book *The Morality of Law*. The book has been widely reviewed and has caused considerable discussion in both philosophy and legal jurisprudence."

Cohen and Dworkin will present critiques of the book along with their own views on the subject. Fuller will then defend his work and rebut their arguments.

### Panel

To end the program, a panel of local experts in philosophy and legal jurisprudence will question the speakers. Representing the philosophers will be three professors: Russell Naughten, Chairman of the Department of Philosophy, LaSalle College; Francis Parker, Chairman of the Department of Philosophy, Haverford College, and Charles J. O'Neil, Professor of Philosophy, Villanova University.

Representing the legal jurisprudents are Professors John B. Murray, Jr., Professor of Law, Villanova Law School and Donald A. Gianella, Director of the Institute of Church and State, Villanova Law School. Professor Gerald A. Abraham will moderate the question period.

Preceding the symposium, the participants, members of the Law Review Board of Editors and Dean Reuschlein will meet at the Covered Wagon Inn for an informal dinner and discussion period.

### Colloquy To Be Published

The entire colloquy will be published in Vol. X, No. 4 of the Villanova Law Review, which will also feature comments on Edward Bander's "Holmespun Humor" by W. Barton Leach and J. Ehrlich. An expanded version of "Holmespun Humor" will soon be published by Mitchie Press.

Cupids made by the fifth grade pupils of Cecile Cox.

Cocktails in the lounge preceded the dinner. The meal was prepared by the Brides themselves, including the wives of Messrs. Breinig, VanDerslice, Goldberg, Suter and Toole. Afterwards there was time for coffee and socializing. The table arrangements were done by the Misses Freilich, Good, Twardowski, May, Cox and Landis.

## Annual Alumni Dinner Attended By Graduates from Five State Area

The Law School's Alumni began last month, what will be an annual Dinner solely for its members.

The first meeting in Garey Hall started with cocktails in the Library and Chairman Robert H. Ford '63 was pleased to announce the facilities were more than adequate for the returning Alumni.

More than ninety members were in attendance. Some came from as far away as New York, Maryland and Western Pennsylvania.

The total also included approximately 40% of the local alumni. The Faculty and the Board of Consultants were the invited guests of the Alumni bringing the total attendance to 115.

Dinner was served in the lounge followed by appropriate remarks of Robert H. Ford, George S. Forde, Jr. '58 Alumni President, the Very Reverend John A. Klekotka, O.S.A. and Dean Reuschlein.

Introducing the evening's speaker was the Honorable Theodore L. Reimel, Trustee of the University. The speaker, the Honorable Raymond P. Shafer, Lieutenant Governor of Pennsylvania, delivered some timely comments on the state-wide effect of recent U. S. Supreme Court decisions in Civil as well as Criminal areas.

The encouraging responses from the Alumni guaranteed continuance of this event in the close-knit atmosphere of Garey Hall.

## Barrister's Wives Plan Activities

This year the Barristers' Brides organization has been more active than ever before. The membership is composed of 78 couples, although a glance at the column on the marital activities of the current student body indicates that the Barristers' Brides has an ever increasing roster.

Led by its President, Ann Twardowski, with Roberta Good as Secretary and Angela Mairone as Treasurer the group has given a Christmas Party for the children of the law students and on February 13th they held a Spaghetti Dinner for members and the faculty.

The major event this year was the Spaghetti Dinner which was attended by 65 persons. The theme was St. Valentine's Day and the table was decorated with hearts and

## Hastie Discusses Federalism at Forum, Says Constitution Is Our Gift to World

The "aspects of federalism" were discussed by the Honorable William H. Hastie at this year's third Law Forum on February 26, 1965. Presently a member of the United States Court of Appeals for the Third Circuit, Hastie claimed that "our federalism is America's great contribution to world government." Citing Australia and several South American countries as a few examples, he stated that our government "has been the model for approximately one third of the political systems in the world today."

A native of Tennessee, who graduated Phi Beta Kappa from Amherst College and received his Bachelor of Laws degree from the Harvard School of Law, Hastie attributed our political survival to "our Constitution's ability to change with the times without drastically reducing its effectiveness or altering its basic principles."

A former professor and dean of Howard Law School in Washington, D. C., he separated today's constitutional problems into two major groups: those which result from "collision" between the federal and state governments over such issues as the Fourteenth Amendment and civil rights; and those emanating from state and federal "cooperation." The latter group, which are more commonly known as the problems surrounding the "welfare state," have evolved within the last fifty years, especially since the 1930's.

The basic problems, Hastie believes, which are before the Supreme Court today, are not those of the "limitations upon power; but rather, decisions of policy."

Condemning the dictum that "the best government is the one which governs least," Hastie pointed to history for proof that governments have usually fallen "because they



(L. to R.) Prof. Dowd, Hon. William H. Hastie and Dean Reuschlein

failed to meet the human needs of the citizenry." Since our government has been able to meet these needs through legal procedures, we have been capable of transporting ourselves along many paths of change without the violence which has accompanied similar "revolutions" in other countries — such as France.

Commenting that there were many prophecies of doom in the early 1930's, Hastie listed three events which he felt prevented the elimination of federalism in the United States. First, the adoption

of the Sixteenth Amendment which gave Congress the "power to lay and collect taxes on incomes" and, thereby, provided a valuable source of revenue for the federal government; second, the broad interpretation given the "general Welfare" clause of Article I, section 8 of the United States Constitution in *Steward Machine Co. v. Davis*, *Helvering v. Davis* and other "social security" cases in 1937; and third, the expansion of the federal regulatory power due to an increasingly broad interpretation of the interstate commerce clause.



## From the Dean's Desk

## As I See It . . .

By Harold Gill Reuschlein

Spring is nigh. At Garey Hall this will be a busy season indeed. Before I write of the business of the next several weeks, let me express pride and satisfaction in our First Alumni Dinner. All of you realize that our alumni have attended the succession of "Law School Dinners" hitherto conducted by the Villanova Student Bar Association which our students also attended. This year, for the first time, our Alumni conducted the first dinner attended by alumni only. It was held at Garey Hall on Thursday, February 11 and I am happy to report, for those who were not present, that it was a tremendous success. Some 115 attended. I am most grateful to our Alumni President, George S. Forde, Jr. '58 and to the Dinner Chairman, Robert H. Ford, '63.

Before this reaches you, we shall have been treated to the 1965 edition of the final argument in the Reimel Appellate Moot Court Competition. Participating will be Andrew J. Hailstone of Scranton, Penn State '63 and Robert G. Kelly of Wynnewood, Penn '62 representing the Chief Justice Warren Club who will argue against Charles A. Haddad of Boyertown, Penn '58 representing the Hughes Law Club and Eugene D. Silverman of Atlantic City, Temple '63, representing the Taney Law Club. They will have argued on Saturday, March 13 before a distinguished bench presided over by Mr. Justice Potter Stewart of the Supreme Court of the United States as Chief Justice. His associates will be Mr. Justice Michael J. Eagen of the Supreme Court of Pennsylvania and Judge William F. Smith of the United States Court of Appeals, Third Circuit.

Just about the time this column hits your desk, the 1965 Annual Giving Campaign will be launched under a chairman to be determined this week (March 8) by your officers. What a phenomenal group our alumni has been. For three years in succession now, 82% of our alumni have contributed each year. In 1964, we increased the dollar volume by 26%. Joe Walheim '61, last year's Giving Chairman has set an enviable mark for his successor. I know our graduates are aware that the School of Law is largely judged by the degree of support which its Alumni give to it and I know our Alumni are proud of the School and want it to assume an even more enviable place among law schools.

As I write, we are dispatching to all alumni a request for data for a new edition (1965) of the Villanova Law School Association Directory which will replace the first Directory issued in 1960. We want the new Directory to be as accurate as possible and we want to send it to the printer as early as possible. This we can do only if you will return your personal data promptly.

What I wrote in this column a year ago is even more pointedly true today. Competition for superior faculty and the superior student becomes more formidable each year. "So be it" and "welcome," provided I can have each and every one of our alumni in the competitive effort with me. What I said last year bears repetition of the eve of our 1965 Giving Campaign: "You do more than your part in giving us money. True, the dollar volume is small. It's as small as you are young — but it is growing and it will be, I know, tremendously significant ten years hence."

I am happy to report that a number of our alumni have been most helpful in contacting us about placement opportunities. This is greatly appreciated and as your fortunes improve, such effort on your part will yield rich dividends to the Law School. This is not a one-way street. If we can



Dean Reuschlein

## Haddad-Silverman Win Moot Court Finals

### Mr. Justice Potter Stewart Presides

Charles A. Haddad and Eugene D. Silverman, Attorneys for the Plaintiff-appellant were successful in the abrogation of the doctrine of charitable immunity and defeated Andrew J. Hailstone and Robert G. Kelly, who appeared for the defendant, in the final round of the Reimel Moot Court competition.

Aside from the immunity issue the case presented the issues of whether a cause of action will lie for conversion of a dead body and for intentional infliction of emotional harm.

A distinguished bench included The Honorable Potter Stewart, Justice of the Supreme Court of the United States; The Honorable Michael J. Eagen, Justice of the Supreme Court of Pennsylvania; and the Honorable William F. Smith, Judge of the United States Court of Appeals, Third Circuit.

The final argument was heard in the courtroom at Garey Hall on

March 13 at 3:00 P.M. A capacity audience of over three hundred viewed the proceedings and met with the presiding justices, participants and faculty of the law school at a reception and coffee hour in the student lounge following the argument.

#### Appellee's Argue

The appellee's arguments on behalf of Mercy Hospital, Inc. were developed historically. According to Kelly, the early courts were of a mind to protect the assets of charitable institutions in order that their good works would not be hampered by the negligence of the charities' employees. Continued operation was deemed of greater importance than individual recov-

ery. The Appellee pointed out that respondent superior was inapplicable to an institution that derives no pecuniary benefit from its operations.

Kelly's conclusion was the plaintiff should sue the negligent party and not the Hospital.

Similarly, the "insurance alternative," Kelly pointed out, was unrealistic since adjoining states without immunity had missile-like rate changes when immunity was abrogated.

The second cause of action was answered by the appellees on the basis that intentional infliction of mental distress, without physical impact or injury is not actionable because the courts will not enter into a guessing game about damages without some evidentiary support.

Some states permit an action for such mental damages per se and others disallow it completely. Hailstone offered the middle ground of allowing the action only when some objective standard of injury is in evidence.

Hailstone dismissed the action for conversion of the dead body on the grounds that there is no property interest in a cadaver, i.e., personal property rights, there is only the right to inter and not of possession or ownership.

#### Appellant's Argue

The appellants' arguments as to liability centered on applying respondent superior to this institution. Silverman said the court should not close its doors to this injured plaintiff. If the patient pays for what he receives, this is not charity.

The appellants attacked the doctrine as historically unsound and pointed out that English charities, from which the rule arose, are no longer immune.

Silverman discounted legislative action as politically impossible and cited a series of sister states that have put the doctrine of immunity on the run.

Haddad recommended a change in existing law in order to conform with the recent "Restatement" provision allowing recovery for intentional mental distress per se.

"The improvement of medical and psychological tools for evaluation of mental harm brings a reasonable standard to this area," said Haddad.

## Alumni Supervise Writing Program For Third Year

Still in its experimental stage, the third year legal writing program began last week.

Previously, those who had not participated in Reimel Moot Court competition were given "practical training" problems from local bar members.

This procedure lacking sufficient supervision of the results was replaced with the present Alumni sponsored program.

Responsibility for the immediate supervision of the program rests on the individual alumnus who agrees to participate. Each is assigned one or two third year students. The alumnus selects and oversees the problems and its student solution.

Since the participating Alumni are furnished with student schedules, conferences are held during the four-week period allotted for completion.

The final memo is from 10-12 pages and is graded on the student's analysis, research, argument, conclusion and clarity.

One credit is given for the student's satisfactory participation which is the same as entrance in Reimel Moot Court. Law Review students receive similar credit.

This year's participating alumni are: Leslie J. Carson, Jr., Thomas E. Eichman, Vincent P. Haley, Jack E. Lenin, Anthony J. Mazullo, Robert E. Slota, James A. Matthews, Robert J. Bray, Stuart H. Savett, William F. Coyle and Will S. Mowett.

## As I See It... (Cont.)

help some of you relocate, call upon us.

As I have so often written, there is no one thing which you can do for Villanova Law School which will pay greater dividends than to steer good college seniors into the School.

When next I report in this column, in the final issue of *The Docket* for this academic year, I expect to acquaint you with the impending faculty changes and additions and with our plans for significant improvement in procedures for recruiting students, placement of graduates and fostering effective alumni programs.

Soon I must say something to our alumni about our desperate need for new and adequate residence facilities for law students, adjoining Garey Hall. The future of the Law School to a considerable extent rides upon an early commitment to provide campus residence facilities, simply because we're losing good students in droves. It hurts!

Despite our problems — with your help — we'll build an even finer Villanova Law School in the years ahead.

### THE VILLANOVA DOCKET


Published four times a year by the students of the Law School, for the friends, Alumni and Students of Villanova University.

Editor.....Richard E. Regan

Associate Editor.....William B. Freilich

Managing Editor.....Michael Macchiaroli

Staff.....James Lynch, Larry Grossman, James Griffith, Joseph Busacca, Rosemary Flannery, Adrienne Arsht, Harvey Blank, William Gold, Fred Jacobs, Edward Mullin, Edward Mengel, Paul Ostein, Joseph Tate



# 4

1/4 %

CURRENT DIVIDEND

WHERE  
THOUSANDS  
SAVE  
MILLIONS  
EACH YEAR

LOWER MERION  
FEDERAL SAVINGS

ARDMORE \*

44 E. Lancaster Ave.  
Midway 9-2200

BRYN MAWR

44 N. Bryn Mawr Ave.  
Lawrence 5-3270



## Alumni News, Marriages, Births, Relocations and Achievements

The outstanding achievements of our Alumni are once again news. Hardly a week goes by that one does not read about their appointments, activities and travels. **Tom Feeney '52** was unable to attend the annual alumni dinner because at that time he was traveling on business through Ireland, Denmark, Germany, and Portugal.

From New York it was learned that **John G. Hall '60** has become associated with the firm of Fach and Sipp. Congratulations to John and also to **Frances Murphy '61**. Frank was just appointed assistant district attorney of Montgomery County. He has been law clerk for Orphans Court Judge Alfred L. Taxis Jr. since January, 1963.

**George R. Kucik '61**, who has been with the Justice Department since he graduated from Law School became associated with the Washington, D. C., firm of Arent, Fox, Kintner, Plotkin & Kohn on February 15th, and he and his wife Lorraine became the parents of a baby boy, George on the same day.

**N. John Casanave '58** is presently giving a course in Labor Law in the Graduate School of St. Francis College at Loretta, Pa.

First Lieutenant **James L. McHugh '62** continues to add to the list of his outstanding achievements. Word has been received in a special letter of commendation to the Dean that Jim has graduated second in his class from the Judge Advocate Special class on February 12. In addition he received a number of awards and honors. Jim was Editor of the Villanova Law Review and last year he served as law clerk to Associate Justice Clark of the United States Supreme Court.

**Bill Van Alen '62** and his wife have named their fourth child, a boy, Lucas. He and Donald Starr of Boston, won the Intercity court tennis doubles at the Racquet Club. Congratulations are in order for

two members of the class of 1964. **Tom Curtis** has been named special assistant to Senator Tydings of Maryland. The Alan Kauffmans are the parents of a baby girl, Julie Beth. Alan reports that he did his floor pacing in a wheel chair as his leg was in a cast because he had torn his achilles tendon while playing handball. The most recent news is of the marriage of **Jim Karp** to Susan Richmond on Nov. 7, 1964. Susan graduated from Villanova University, B.S. in Nursing and is now on the staff of the Easton Hospital.

Three third year students were quite recently married, two on Saturday, February 27: **James L. Griffith** of Clementon, New Jersey married **Eleanor May Hazlin** of Mystic, Connecticut. Eleanor is a third year student at Woman's Medical College. Also married was **Edmund L. Pantani** to **Teresa Maire Edge**. She is a librarian in New Haven. The Docket also extends its congratulation to **Iris Richman** of Atlantic City, New Jersey and **Harvey Blank** who were married on March 7.

In the second year, there was one wedding in December and three "exam" babies. **Arthur E. Sklar** married the former **Carol Litman** on Dec. 12. Carol graduated from Temple and is teaching elementary school in Philadelphia. **Mary Louise Haddad** presented her husband, Charles, with a daughter, **Martha Louise** on Jan. 12. The following week on January 18 while her father was taking the Conveyancing exam, **Connie Anne Phillips** came into the world. This is the first child for Ellen and Rich. Just as the exam period ended, Jan. 21st, Susan and Jim Kerwick became parents for the third time, a boy, **James Marshall**. Tracey Anne is 3 years old and Michael is 15 months.

## Cleary Labels Practical Training Current Concern of Law Schools

The best way to supplement law school study with practical training is a current concern of both law school teachers and attorneys, with concrete solutions imminent, according to **John J. Cleary**, Assistant Dean.

Pennsylvania's State Board of Law Examiners has been examining such programs as New Jersey's "skills course" of three months with a view to replacing the present requirement of six months' clerkship under a practicing attorney, prior to admission to practice.



JOHN J. CLEARY

Cleary indicated that the local clerkship program which places a law student before and after graduation under the practical tutelage of an attorney does not always work out as visualized. The embryo lawyer frequently complains that he is assigned mainly to research and frequent trips to city hall and courthouse, necessary but not sufficiently instructive in terms of what his ultimate practice will require.

### Student Problems

Since his position embraces problems of law students from their first application, through their law school days and up to their admission to practice, Cleary sees the practical training area from two aspects. He is a member of two committees of the Philadelphia Bar Association, one being Professional Education. The other is the committee on Marriage, Divorce and Family Law.

### Legal Aid

Before leaving the subject of pre-practice training, the youthful assistant dean commented upon another type of program. Based upon the premise of providing legal aid to those unable to afford legal counsel or unaware of its availability, Philadelphia and local county Voluntary Defender programs have from time to time used Villanova students to assist its attorneys but co-ordinating the students' and attorneys' time has presented difficulties. Other law schools, notably Harvard University, where the law students, guided by practicing attorneys, advise indigents in criminal and civil matters, also foster legal aid programs.

Cleary pointed out that in view of recent Supreme Court decisions there is a greater need than ever for providing full scale legal representation to those persons accused of crime and unable to afford counsel. In addition under the impulse of the "war on poverty" programs now being advocated, greater attention is being given to the need of the poor for legal services as the welfare state grows more complex. A combination of such circumstances is apt to create a greatly increased demand for supplementary legal services which law students could render.

### Practical Training

The alumni-student writing program whereby Villanovans are assigned a specific topic to research in aid of an alumnus-attorney and earn a one-hour credit is another attempt to meet the need for practical training. Cleary noted that alumni have been most cooperative, despite the same problems of co-ordinating time as met in the Voluntary Defenders' situation.

While Cleary's duties in his three years in his post are mainly concerned with interviewing applicants, handling day-to-day student problems and aiding in placement of graduates, he has also taught a number of courses. Last spring he carried almost a full teaching load. This fall he added the course in Unfair Competition.

The first full-time Villanova Law School graduate on the faculty, Cleary came here following a short

## SBA Victor in Coffee Clash McMenaman Is 'Caffeine King'

Gambling has been abolished at law school. The game of chance which was played daily by the students was not of the type that would appeal to an habitué of the Las Vegas gambling houses. The odds were stacked against the participant. The one-armed bandit of which we speak is (or rather was) the coffee machine.

The Student Bar Association had received a number of complaints daily citing: (A) there was no coffee or, (B) even though there was,

the machine would not disgorge its tasteless liquid but would hold tenaciously any coins deposited. At a weekly meeting of the S.B.A. **Paul McMenaman** told of a coffee service operating at Syracuse Law School and proposed that the S.B.A. investigate the possibilities of instituting a similar service at Villanova. **Ed Mullin** related that Rutgers law school (Camden) had had success with its service.

On McMenaman fell the task of correspondence with other schools to seek out particulars and to assess the student opinion at Villanova. On reporting his findings he submitted that the service would be feasible, profitable and very much appreciated at Villanova. Before beginning operations the consent of the administration was needed. A committee comprised of **McMenaman**, **Mullin** and **Tom Henry** approached Dean **Reuschlein** with the proposal. The dean, having heard the details, asked pertinent questions about the operation of the service. The dean then gave his consent to the service and also volunteered the use of the coffee maker used by the school until more permanent arrangements could be made. **McMenaman** then solicited bids from suppliers and the service was begun. **Gerry Donnelly**, of the second year, was the first customer and he commented favorably on the quality of the coffee. Since then the students have become acclimated to the service and it has been assimilated into the routine of the lunch room.

While the primary purpose of the project was to afford a service to the students there is promise of other benefits. The profits from the service will go into the general treasury of the S.B.A.; and, while the service has not been in operation for a sufficient length of time to determine its profit potential, it will most likely result in a lower dues assessment for S.B.A. membership.

The coffee service is in operation seven days a week; from the time the building opens, until it

(Continued on Page 4)

*The Title Insurance Corporation  
of Pennsylvania*

HEADQUARTERS • BRYN MAWR, PENNA.

COMPLETE TITLE INSURANCE

throughout

ARKANSAS — CONNECTICUT — DELAWARE — LOUISIANA —

MARYLAND — MISSISSIPPI — NEW JERSEY —

PENNSYLVANIA — PUERTO RICO —

SOUTH CAROLINA — TENNESSEE —

VIRGINIA — VIRGIN ISLANDS

Reinsurance facilities available through primary  
insurers in other states

G. M. Burlingame, President



## SBA Sponsors Lectures on Jury Selection and Discovery

The Villanova Law Student Bar Association sponsored two lectures on the problems of trial practice on February 25th and March 4th from 4 to 5 o'clock. Through the efforts of SBA President Henry Burgoyne, James Cavanaugh and Harry Short, both 1956 graduates of University of Pennsylvania Law School, presented two lectures on practical problems of trial practice.

Mr. Cavanaugh is now a partner in the firm of Richter, Lord, Toll and Cavanaugh. Mr. Cavanaugh was present to discuss the practical problems plaintiff attorneys encounter in trial preparation and presentation.

Mr. Short is now a partner in the firm of Leibert, Harvey, Hurting and Short. Mr. Short's firm is engaged in trial work for insurance companies. Mr. Short was present to discuss the problems encountered by defendant attorneys in preparing cases for defendants.

Mr. Cavanaugh presented the factual background to the hypothetical negligence case in which the attorneys were to point out problems of preparation and presentation of a case. There are four basic phases to every litigation.

The first phase of a case begins when the plaintiff client comes into the attorney's office. The attorney thoroughly interviews the client on items concerning (a) how the accident happened and (b) client's personal data: that is, (1) prior medical history and (2) prior claims history.

The second phase of pre-trial preparation is the investigation phase: (a) police reports, (b) photographs of accident scene and of plaintiff, (c) securing statement of witnesses and (d) contact de-

fendant's insurance company.

Mr. Short then discussed the basic problems of the defendant's attorney: that is, finding out the facts and evaluating the case from a monetary standpoint. Mr. Short emphasized that it is very important for defendant's attorney to get a visual scene of the accident because testimony concerning the scene of the accident often differs from the real facts.

Mr. Cavanaugh discussed the discovery procedure used by plaintiff's attorney and jurisdictional questions concerning the importance in choosing a forum. Depositions of defendant driver and any material witnesses are taken by defendant attorney. Mr. Short pointed out that the discovery phase is where the defendant's attorney gets into the case.

The third phase is the selection by the attorneys of a jury. Both attorneys question prospective jurors to find out if any prospective juror appears to be prejudiced for or against their respective clients and then to proceed to select them accordingly.

The fourth phase is the trial. Judge Joseph Leo McGlynn, Jr., of the County Court of Philadelphia presided and Mr. Jack T. Bernstein, a third year law student took the part of a plaintiff witness.

After each attorney summed up his argument, Mr. Burgoyne asked for questions from the audience. Mr. Cavanaugh, Mr. Short, and Judge McGlynn answered all the questions asked by the audience. Everyone who attended the series of lectures agreed they were most informative and enjoyable and everyone hoped to see this program continued.

## Villanova Graduate Clerks for Justice Bell; Discusses Both Advocacy and Appellate Review

The Supreme Court of Pennsylvania is the oldest appellate court in the country, antedating the Supreme Court of United States by 67 years. It is also the oldest court of record in continuous existence in the United States. I was privileged to spend one year as law clerk to the 36th Chief Justice of the Supreme Court of Pennsylvania, John C. Bell, Jr.

That experience convinced me that the position of clerk to a Justice of the Supreme Court of Pennsylvania is neither as glamorous as it appears to some nor as important as it may seem to the clerks. The most important and unique aspect of the position is that it provides the clerk with an unexcelled opportunity to learn. A clerk is first and foremost an apprentice.

### Clerk's Duties

The duties, and as a result, the opportunities of each clerk, differ according to the work habits of "his Justice." I have heard some former clerks of Pennsylvania Supreme Court Justices complain that all they did was blue book opinions, shepardize cases and research issues. Fortunately, for me, Chief Justice Bell gave his clerks wider scope for their abilities and enthusiasm.

An average day would begin around 8:30 A.M. with a check of the mail. Opinions of the other Justices, which are circulated prior to conference, are set aside to be read and commented upon. If the court is not in session, most of the day will be spent reading briefs and records of cases on the upcoming argument list, writing summaries of each case, writing tenta-

tive drafts of opinions in cases which have been assigned, reading and commenting on the many petitions, and discussing opinions.

### Case Load

The Supreme Court of Pennsylvania has a greater case-load than virtually any other appellate court in the country. In addition, the Chief Justice is burdened by a multitude of petitions which he usually disposes of himself. Therefore, it is not unusual that Bell, as his predecessors, does not have the opportunity to read all the briefs prior to argument. To fill this void, he has his clerks prepare, prior to argument, short summaries of each case giving (1) facts, (2) issues, (3) applicable principles of law, (4) disposition by the lower court, and (5) tentative suggestions of the clerk as to affirmance or reversal.

Justice Bell usually allows his clerks to do the "rough draft" of most of his opinions. The clerk is told the decision of the court and his job is to draft an opinion and polish up his draft to the point where he feels he has done the best he can. The Chief Justice then reads the opinion and makes notes of his ideas about the case. Then he and his clerk discuss all aspects of the opinion, including approach, wording style, and, occasionally, the result. As a consequence most opinions will be almost completely rewritten; very few go through virtually unchanged.

Another duty of the clerk is to read the opinions of other Justices and make written comments on them. These are also discussed with the Chief Justice and serious objections, if any, are conveyed by him to the author. Opinions go through many drafts and on a few occasions an opinion that began as a dissenting opinion has become the opinion of the court.

The remainder of the time is spent reading and reviewing the numerous petitions addressed to the Chief Justice and assisting in writing the many speeches he is called on to make. Quitting time is usually around 6:00 P.M. Some Saturday work sessions are held in the Chief Justice's home in Wynnewood.

The year with an appellate court gives the clerk a tremendous grasp of the law. In one year virtually every aspect of law comes before the court. The clerk reads all briefs filed, most of the opinions cited in the briefs, does independent research, considers the policy behind the legal principles and assists in writing legal opinions. He thus learns more usable law in that year than he has learned in three years of law school. He usually also develops the salutary habit of reading faithfully all opinions emanating from "his court."

### Court in Session

By far the most exciting part of the job takes place when the court is in session. The Supreme Court of Pennsylvania sits *en banc* either in Philadelphia, Pittsburgh or Harrisburg. Each Justice has a separate office in his home county and the Court meets as a body only during the scheduled sessions in each city. The length of the session depends on the number of cases on the list. The first day of each session is devoted to conference during which opinions are changed, approved and prepared for filing. The daily session begins at 10 A.M. and ends at 4 P.M. with an hour and a half for lunch.

During the session the clerk is expected to arrive at the office at 8:00 A.M. to do last minute work on opinions and discuss with the Chief Justice cases scheduled to be heard that day. The Court is in conference from 9 to 10 A.M. each day of the session. At this time the Justices vote on cases already heard and discuss opinions which have been circulated.

During this time the clerks keep themselves in readiness in their own room, which is adjacent to the conference room. It is here, while with each other, that the clerks develop a feeling of importance. While the court is in conference the clerks lobby to obtain each other's support on particular cases, discuss the "correct" result in certain cases (which may differ from the court's result), decide the cases "correctly," "criticize the opinions of the other clerks," and generally act as if they are the wisdom behind the robe.

This false sense of self-importance ends at 10 A.M. when the court ascends the bench and the clerk takes his seat to await the inevitable request of his Justice for books. However, it is here that the clerk is exposed to the heart of one of the least understood, even among lawyers, of all the parts of the legal process, i.e., appellate review. Few laymen realize that an appellate court does not have a jury and does not take testimony from witnesses. But here, often for the first time, the clerk sees examples of oral advocacy, some examples of which he should emulate and others, eschew.

### Meaning of Advocacy

It is strange that law schools which instruct largely through appellate opinions do virtually nothing to guide the student in the art of appellate advocacy. This is perhaps a result of the pre-occupation with increasing amount of substantive and adjective law (i.e., the science) at the expense of how to apply this law to obtain a beneficial result for a client (i.e., the art).

Perhaps the most important thing derived by the clerk is that he observes the ways of "advocacy." Law schools instruct him in the law and, sometimes train him to be a lawyer; they make virtually no attempt to train him to be an advocate.

A law clerk then is no decider of causes or expounder of legal principles. He is essentially an apprentice, learning not a trade, but an art, the art of advocacy.

Joseph G. Manta, Esq., LL.B.  
Villanova University School of Law, Member of the Phila. Bar, Associate with LaBrum and Doak

## Freshmen Moot Court Competition Proceeds; Amateur Advocates Prepare Appeals

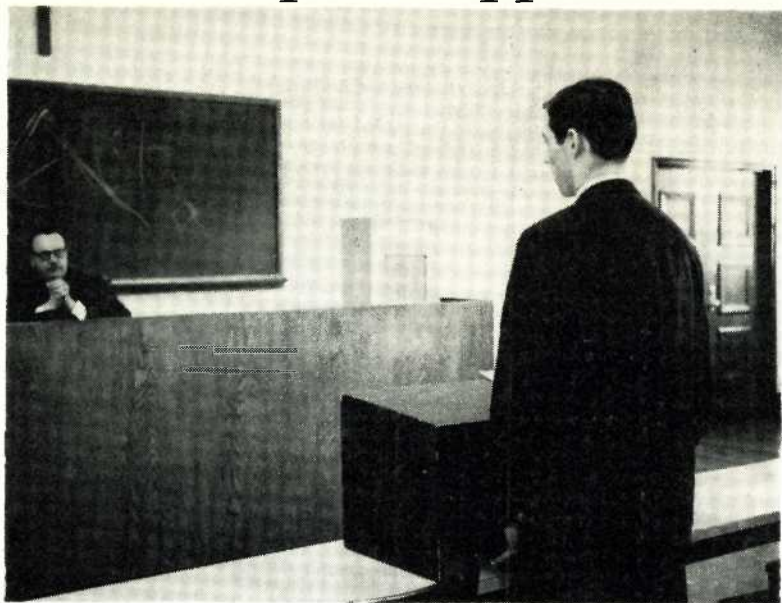
As the second semester began, the first year students commenced their preparation for moot court competition. The freshmen entered into a new phase of their legal education; and intensive research, concentrated application of the mores of legal procedure and repeated revision of drafts were the order of the day. After March 15th, the final evaluation of all this effort was determined in the resultant success and failure during "courtroom" competition with classmates.

### Larger Program

The fact that 128 "advocates" participated made this the largest moot court program in the history of Villanova Law School. Second and third year students acted as student judges. This practice was abandoned last year, but was re-instituted.

Although only half the litigates emerged as victors in the actual "trials," it was possible for all those taking part to receive a passing grade and one semester-hour credit. That determination was based upon both the written briefs and the oral argument. The quality of the research, its extent and completeness; the nature of the written brief, its logical arrangement of the issues; and the legalistic presentation of the facts and law during the oral debate were all used in arriving at a final grade.

The problems were based upon issues involving the basic courses



Freshman Moot Court activity

of the first year: that is, contracts, torts, and property.

### Practical Aspects

This program offers the freshmen their first exposure to the practical aspects of the legal profession. Via this segment of their law school education, they are given an opportunity to apply the classroom training they assimilated during the first semester; thereby, giving them an excellent chance to evaluate their understanding of the law.

While they were striving for a passing grade, the participants were also representing their various law clubs. Upon completion of the moot court competition, the club containing the greatest amount of winners is declared the overall winner.

## Cleary Labels (Cont.)

period of private practice with the Philadelphia firm of Brady and White. Previously he had served as law clerk to the Honorable Gerald A. Gleeson, Judge of Philadelphia's Common Pleas Court No. 7.

A native of New York, Cleary was graduated from Villanova University and served as an officer in the U. S. Navy prior to entering law school. He was a member of the Law Review and later was elected to the Order of the Coif.

He teaches a course in School Law to graduate students in the Education field "across the tracks." In addition he has written three articles for the new Catholic Encyclopedia on Family Law.

## SBA Victor (Cont.)

closes. On weekends instant coffee is provided. It is run on the honor system and, also, provides change for use in other machines.

The S.B.A. would like to take this opportunity to thank Dean Reuschlein for the support he has given. Without his permission and his valuable assistance the service would still be a dream.

To Paul McMenaman who was actually the father of the service goes the knowledge that he will long be remembered at Villanova as the man who established a more than adequate quid pro quo for the coffee drinkers on campus.