ATTORNEY GENERAL TO SPEAK AT COMMENCEMENT

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

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

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

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

Following the ceremony, tea will be served in the lounge and on the terrace, affording the students' guests an opportunity to meet and talk with the faculty on an informal basis.
Mempa v. Rhay: Right to Counsel at Sentencing?

In Mempa v. Rhay, U. S. ....... 88 Sup. Ct. 234 (1967) the issue was whether in the State of Washington, an individual who pleads guilty to an offense, is placed on probation, and is subsequently sentenced during a revocation of probation hearing to a term of confinement, must be afforded counsel at such a hearing. The Supreme Court of Washington held there was no necessity to provide counsel in this type of proceeding on the grounds that the sentencing under the state statute takes place when the convicted defendant is originally placed on probation and the imposition of sentence at the revocation of probation hearing is a "mere formality." The United States Supreme Court, although recognizing that the trial judge in Washington is required to sentence a convicted person to the maximum term provided by the statute, found that the actual term served would be determined by the State Parole Board, which in turn relied heavily on recommendations made by the trial judge. Furthermore, an appeal in a case where a plea of guilty had been entered and probable cause followed could only be filed at a revocation of probation hearing and a plea of guilty could be withdrawn until sentences are imposed at such hearing. This led the Court to conclude that more than "mere formality" was involved and the need for counsel in "marshaling the facts, introducing evidence of mitigating circumstances and in general aiding an attorney to prepare the defendant to present his case as to sentence is apparent." And, with respect to the right of appeal or withdrawal of a guilty plea.

"An unrepresented defendant might very well be unaware of this opportunity." The Court ruled that neither the genesis nor historical evolution of the Sixteenth Amendment does provide for the right to an attorney at sentencing in federal cases and Williams v. New York, 334 U.S. 775 (1948) (where it was held that a defendant's right to counsel at a criminal proceeding was denied due process when sentenced in the absence of counsel and where the judge relied on a criminal record which was erroneous) which "illustrates the critical nature of sentencing in a criminal case and might well be considered to support by itself a holding that the right to counsel applies at sentencing."

Yet the Supreme Court did not choose to make Mempa the vehicle for deciding that a convicted person must have counsel at all sentencing proceedings. "All we decide here is that a lawyer must be afforded at this proceeding whether it may be termed a revocation of probation or a deferred sentencing."

This narrow holding may have been predicated on the basis that the Court did not feel the fact situation lent itself to a sweeping decision as to the right of counsel during the revocation of probation hearing and a plea of guilty could be withdrawn until sentences are imposed at such hearing. This led the Court to conclude that more than "mere formality" was involved and the need for counsel in "marshaling the facts, introducing evidence of mitigating circumstances and in general aiding an attorney to prepare the defendant to present his case as to sentence is apparent." And, with respect to the right of appeal or withdrawal of a guilty plea.

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**Dicta in the Mempa decision points out the strong need for counsel in sentencing procedure. The Court cites with approval lower federal court decisions which have held that the Sixth Amendment does provide for the right to an attorney at sentencing in federal cases and Williams v. New York, 334 U.S. 775 (1948) (where it was held that a defendant's right to counsel at a criminal proceeding was denied due process when sentenced in the absence of counsel and where the judge relied on a criminal record which was erroneous) which "illustrates the critical nature of sentencing in a criminal case and might well be considered to support by itself a holding that the right to counsel applies at sentencing."

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"An unrepresented defendant might very well be unaware of this opportunity."
AWARDS PRESENTED AT ANNUAL DINNER DANCE

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

The head table was positioned at a far corner from which the stage of blue decor on the far wall could be viewed. A stairway bordered by a white carpet curved up from the floor, an expanse of which, during cocktails, a table was placed on which beer dispensers were arrayed. The dining tables were endowed with floral centerpieces, candlelight, and wine that accentuated the evening's culinary delights. Subsequent to the meal, the announcements of awards, Nick Ruben orchestrated the festivities into a new day.

The individual winners of the awards selected during the year were: Robert R. Block, The Roman Catholic High School Alumni Association Award for the attainment of the highest average during the first year of law school; Walter J. Taggert, The Robert C. Duffy Administrative Law Prize for grasping the problems involved in subjecting public administrative action to the rule of law; James D. Hutchinson and Jay R. Rose, The Herman J. Ober Award for attainment of the highest grade in the summer session; Jeffrey W. Kohlhoff and Joseph R. Wenk, The Joseph J. Lehm Award for attainment of the highest grades in criminal law; and Raul A. Carulli Award for attainment of the highest cumulative average for both semesters during the second year of law school; Mark S. Dichter and Joseph W. Weak, The Jannus Building Award for outstanding contributions in the classroom during the first year; John P. O'Dea, The Rose B. Rinaldi Award for outstanding contribution in the classroom during the second year; and Jean N. Simon, The Law Alumni Award for scholastic improvement from the first to the second year.

Judgment on the Merits

By EDWARD G. RENDELL

Counsel for Indigents on Appeal

One of the burning questions in the field of criminal procedure today is whether the case of Douglas v. California, 372 U.S. 335, 83 S. CT. 814 (1963) should be extended. The landmark holding of Douglas was that if a state has created mandatory avenues of direct appeal, it would be a violation of the Equal Protection Clause of the 14th Amendment for the state to provide counsel to help carry out his direct appeal. The rationale behind the decision was clear. The court felt that an indigent should have as equal an opportunity as a rich man to frame his direct appeal. However, the Court was not ready to extend its holding to other types of appeal. It stated that:

"We are not concerned with the problems that might arise from the denial of counsel for the preparation of a petition for discretionary or mandatory review beyond the stage in the appellate process at which the claims have once been presented by a lawyer on an appeal by an indigent. We are dealing only with the first appeal, granted as a matter of right to rich and poor alike from a criminal conviction. We need not now decide whether California would have to provide counsel for an indigent seeking a discretionary hearing from the California Supreme Court after the District Court of Appeals had sustained his conviction . . . or whether counsel must be appointed for an indigent seeking review of appellate affirmance . . .".

Thus, it is clear that the Court did not decide whether an individual who may not be able to afford counsel in either of the following situations: 1) on appeal to a higher appellate court from the denial of his appeal by an intermediate appellate court, or 2) on collateral attack (e.g. habeas corpus, or, as in Pennsylvania, under a Post-conviction Relief Act).

The pressing question is then, should Douglas be extended to cover these situations. I believe it should not. My reasons are essentially pragmatic and are that extending Douglas would basically be to insure equal protection to the indigent he should be granted counsel to carry out any appeal allowable for that is the opportunity behind the decision. This argument seems clearly non-persuasive. The Equal Protection Clause can never be absolutely construed. Absolute equality is impossible. Providing every defendant with a lawyer all the time will not create absolute equality, for the court appointed lawyer will usually be a young, inexperienced lawyer as compared to the lawyer a rich man could hire. The Court in Douglas realized this. It stated, "Absolute equality is not required; lines can be and are drawn to effectuate greater equality."

Should a line be drawn here? Again I believe so. Under Douglas an indigent is assured of counsel for his direct appeal. He has not only had his day in trial court, but he has not been tried after his gotten his day and if wrong were apparent after trial, his counsel and he should be able to bring them out on direct appeal. Perhaps the only area where an indigent should have counsel to help him on collateral attack is when the Supreme Court has created a new right which was not known of at the time of his direct appeal and which has been held to apply retroactively. For example, if the Supreme Court had held that the required warnings it mandated in Miranda v. Arizona, 384 U.S. 436, 86 S. CT. 1092 (1966) were to be applied retroactively then an indigent should be given counsel to help him frame his collateral attack based on a right which he did not know existed at the time of his trial and direct appeal. (Of course, the Court in Francis v. Texas, 387 U.S. 463 (1967) and Palko v. Connecticut, 302 U.S. 319 (1937) the warnings were not to be required retroactively.)

LAW REVIEW

(Continued From Page 1)

Michael J. Izzo, St. Peter's College '61; and Michael P. Marnik, College of Law, New York, '66.

Other second year students include Joel C. Meredith, Roosevelt University, '66; Robert R. Block, Gettysburg College, '66; Thomas C. Riley, Drew Institute of Technology, '66; Robert J. Johnson, Franklin and Marshall College, '66; and Joseph A. Torregrossa, Villanova University, '66.

BUILDING

(Continued From Page 1)

While no final word has been reached on direct appeal, the court has been informally heard that Mr. Moiser-smith was pleased with the results.

Acting upon Dean Reuschlein's suggestion, the Building Committee has been advised by Dennis Coyne serving as chairman, School of Law. As such, the Committee may advise the Faculty on student ideas regarding the forthcoming construction.
GIANNELLA EXAMINES EMBATTLED ESTABLISHMENT CLAUSE IN HARVARD LAW REVIEW

by JUSTIN BLEWITT

In the January 1968 issue of the HARVARD LAW REVIEW, Professor Donald A. Giannella, in an article entitled Religious Liberty, Nonestablishment and Doctrinal Development, Part II: The Establishment Clause, and the premises underlying the rationale of the guarantees embodied in the First Amendment in the light of the ever broadening scope of governmental regulations.

Viewing the Constitution in its historical context, we see that the framers intended a government of highly limited powers. Religion was certainly to play a part in the established social order, but it was then thought that the state would play a passive role in forming that order. Clearly, the liberty in removing governmental restrictions on belief, the avoidance of improper burden which is bound to be heavy burden which is bound to be

Professor Giannella suggests that the “no aid” theory, as called for by the rule of strict neutrality, would not properly serve the purpose underlying the Establishment Clause. The principle of “free exercise neutrality” discussed in Part I of Professor Giannella’s article explains why even the slightest interference from governmental restrictions on behavior. However, it fails to justify aid which is without regard to its effect on the “no aid” theory. Professor Giannella suggests a singular neutrality principle that Professor Giannella describes as a viable by-product of the First Amendment. Professor Giannella suggests that “as a general rule, it is not necessary to explain this. Where as the aim of “free exercise neutrality” discussed in Part I of Professor Giannella’s article explains why even the slightest interference from governmental restrictions on behavior. However, it fails to justify aid which is without regard to its effect on the “no aid” theory. Professor Giannella suggests a singular neutrality principle that Professor Giannella describes as a viable by-product of the First Amendment.

The Faculty Committee for the establishment of a Faculty-Student Relations Committee held an open meeting to discuss the structure of the Committee and to allow interested students to make their recommendations concerning the proposed organization. The Faculty Committee was formed in September to “investigate means for the advancement of effective avenues of communications for reflection of student interest in certain aspects of the functioning of the law school.” It was hoped that through this open hearing on the proposed structure, the Committee would indicate their interest in the proposal and whether the faculty committee would be effective to achieve representation of students.

However, during the meeting only one student, Michael Kennedy, spoke on the plan as proposed by the Faculty Committee and only thirteen students attended. Seven members of the faculty were in attendance. The proposal as made was to set up two subcommittees of student members and other composed of faculty members. The student subcommittee would consist of the following persons or their designees: The President of the Student Body, The President of the Honor Board, The President of the Inter-Club Committee, The Dean of the Students, The Dean of the VILLANOVA LAW REVIEW, The Chairman of the moot Court Board, and the Editor of THE DOCKET. This subcommittee would meet regularly on any matter of concern to the Law School.

The Faculty subcommittee would serve to frame the idea, including the Vice-Dean and would have regular meetings.

The VILLANOVA DOCKET

ANNUAL GIVING DRIVE BEGINS

Edwin (Ed) Scott, ’83, this year’s Annual Giving Director, has announced that the Drive was launched in December and which it is hoped will successfully be completed sometime this month, is well underway and is gaining momentum daily. As of mid-March, close to 50% of the amount thus far contributed and the amount contributed is considerably less than the original estimate in bygone years. But Ed emphasizes that this is by no means enough that the amount contributed is not as significant as the fact that we are currently being contributed.

The goal this year is not simply to match, but to surpass last year’s phenomenal 88% alumni response. All alumni are urged to make their contribution now in order to make sure that this year’s drive from the concentrated efforts which was created when a large segment of the alumni wait until the last minute to make their contribution.

Faculty-Student Relations Committee To Be Formed

by MARYLIN FULLERTON

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Students Perform In Mock Trials

by ROBERT J. EDY

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

The defense presented five witnesses. Taking the stand on behalf of his son were: Senator Johnson (Fortunate Guidi), who was a bystander, the father of the defendant (Harry Himes), the examining physician (Harry Himes). The crime was allegedly committed while Evans was participating in the perpetration of a robbery. In furtherance of its case, the Commonwealth called the father of the deceased William Lane (Stanley, a witness). In addition, the arresting police officer, Sergeant O’Connor (Dennis O’Hara), offered testimony relating to the investigation and arrest of the defendant.

The second trial in this program was held on Saturday, March 16, again under the guidance of Professor Collins. That action involved a prosecution for felony-murder also in that a bystander was killed as a result of the conclusion of the burglary of a jewelry store. The defendant, represented by attorneys Ed Kopparisski and Paul Eisenberg, alleged that he was in fact coerced into joining the conspiracy to commit the robbery out of fear for both himself and his fiancée. Defense counsel thus argued that the defendant could not be held for the murder of the bystander under the co-conspirator rule since his participation was not voluntary. Following this reasoning the defendant would not be responsible for the acts of any of his co-conspirators in the furtherance of the crime. The prosecution asserted that the defendant was merely a member of the conspiracy. The motive cited was that defendant needed the

(Continued on Col. 4)
BOARD OF CONSULTORS VISITS THE LAW SCHOOL

The Board of Consultants held their annual day of visita-
tion on March 8, 1968. During the day the consultants sat
in on various classes, met with the faculty and Dean Reusch-
lein, and enjoyed an evening dinner. However, this year
there was a new addition to their schedule.

This year members of the Board of Consultants met with
five student groups to discuss various matters of interest to
the students and the law school. Participating in the five
was one topic of great interest.

Participants write an Ap-
A joint meeting was held between a project titled 
reels that the board had been very profitable. All hoped that such
a program would be continued in

Social Light

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

Paul F. Chase, 70, has become engaged to Judith Stokhamer. Judith is employed as a medical assistant in Philadelphia. Their engagement was announced in the Philadelphia Inquirer. They plan to be married on May 18, 1968.

John R. Douhan, Jr., 99, is engaged to Barbara Collins. They plan to be married May 25, 1968.

Milton Rosenblatt, 70, and Su-

san Silvers have announced their engagement. Susan is employed as a medical assistant in Philadelphia. A tentative date for the wedding has been set for June 1968.

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

Moot Court

(Continued from Page 1)

spended in September 1968 that it would close the Bridging earring
plant for economic reasons, and would continue to operate the plant at
the Birmingham location. Petitioner offered to bargain over this deci-
sion, but Respondent refused and protested this action. The Board
held that the closing of the canning plant, during negotiations dis-
closed an anti-union animus and constituted an unfair labor prac-
tice. The United States Court of Appeals, Third Circuit, affirmed
the Board's decision, per curiam, and the case comes before the United States Supreme Court, for

The Reimel Competition is a voluntary most court program open
to all second and third year stu-
dents. Participants write an Ap-
elate Brief and argue in a series of elimination rounds before three
man benches of the Bar and Ju-
diciary. This year the law school was honored to have three Com-
mon Pleas Judges from Philadelphia sit as the Chief Judges for the Quarter-final Arguements, and six members of the United States District Court for the Eastern Dis-
trict of Pennsylvania hear the ar-
guee. As in all other cases, ail rules of the day. Each participant's argument is the cul-
mination of the competition.

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

THE LAW REVIEW

Volume VI

The Pass-Fail grading system took, at the election of the stu-
dents, seemed to agree that the time

more participation in Community

after graduation. It seemed doubt-

program. The possibility of credit

THE LAW REVIEW

was not on scholarship in first

social activities and the SBA's

and the case comes before the United States Supreme Court, for

Further, student participa-
tion in their government must be

future years.

18, 1968 has been set for the wed-

Law students in the wedding party

Paul F. Chase, 70, has become

elected representatives, but also of

the law school and other law schools and colleges in the area. This

neglect of linkages among the various in-

in the metro-

Philadelphia academic com-

Presently there is a lack of a

constructive exchange between organi-

THE LAW REVIEW

Editor-in-Chief
Associate Editor
Alumni Editor
Managing Editor
Staff
Photography

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MARCH, 1968

THE VILLANOVA DOCKET

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the friends, alumni and students of the Law School.

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FACULTY EXPLAINS VIETNAM POSITION

BY PATRICK J. MANDRACCA

In late 1967 various notable members of the Harvard Law School Faculty mounted a campaign to solicit support from the student body for the student petition (a replica of which appears below) critical of the current status of our involvement in South Viet Nam. In mid-February, the Villanova Law School Faculty was presented with a petition signed by the instructors. Mr. T. J. Donick, in his signature, revealed why the members of our faculty signed or declined to sign the petition. Mr. Brown answered one of the questions asked by Mr. Donick.

1. Mr. Abraham commented that if we were to assume that our goal of containment of Com- munist aggression in Asia is a justified one, the means which we are employing are capable of achieving the aforementioned goal. Thirdly, that we be able to reduce or eliminate the possibility of a disengagement of the North, for this would cer- tainly result in further bloodshed and loss of life.

2. Mr. Brown defines the chief American interest as the viability and the protection of viable (popularly sup- ported) democratic governments which rest upon the support of their foreign policy. He stated that we must weigh this interest against the likely disadvantages of a policy of non-involvement; that the South seem to be a meaning- less condition which will preclude negotiations leading to a mutual political and social harmony, and that our traditional propositions that the promotion of the Communist cause is worthless. He suggested that after talks have commenced, our capa- bility to detect any increase in inflat- ion which might then be the signal for a change in that policy in every legitimate way they can.

3. Mr. Stephenson regrets ever having gotten involved in a land war in Asia. Yet, he believes it was incumbent upon us to set up and maintain a front in South- east Asia to stem the tide of Com- munist aggression. He strongly disagrees of any measure, such as the circula- tion of this petition, which in his opinion was designed to embarrass the President and to further the primary campaign period. He be- lieves that we are obliged to support the people of Viet Nam.

The following professors did not sign the petition:

1. Mr. Abraham
2. Mr. Brown
3. Mr. Donick
4. Mr. Stephenson
5. Mr. Stephenson regrets ever having gotten involved in a land war in Asia. Yet, he believes it was incumbent upon us to set up and maintain a front in South- east Asia to stem the tide of Com- munist aggression. He strongly disagrees of any measure, such as the circula- tion of this petition, which in his opinion was designed to embarrass the President and to further the primary campaign period. He be- lieves that we are obliged to support the people of Viet Nam.

A STATEMENT ON VIET NAM

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

We are opposed to the present policy of the United States in Viet Nam. We do not see any controlling commitments which require us to continue to pursue that policy.

We believe that the United States cannot by acceptable means secure its present commitment on the control of the Saigon government over the territory of South Viet Nam by military force, and that the continuing expansion of our military involvement in the service of that end creates a threat of a worldwide conflagration.

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

We believe that it is wrong and dangerous in these circumstances to continue to subordinate desperately needed domestic programs to the increasing demands this war is imposing on our nation's resources and moral energies.

We suggest that any policy decision necessarily implies a choice of a precipitate withdraw- al of United States forces or an abandonment of our supporters in South Viet Nam.

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

We believe that our country should take urgent steps, including a prompt reduction in the scope of land and air operations by American forces, to signify our intention to limit our political and military aims in South Viet Nam. We believe that such steps are an essential precondition for the release of those political forces, both within South Viet Nam and internationally, which seek peaceful compromise and could engage in genuine negotiations.

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

CALENDAR OF EVENTS

Wednesday, April 17th


Friday, April 19th


Sunday, May 13th


Monday, May 18th


Wednesday, April 17th


Friday, April 19th


Sunday, May 13th


Monday, May 18th