

# The Justinian

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## The Justinian

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*Member of American Law Student Association*

BROOKLYN LAW SCHOOL, BROOKLYN, NEW YORK

DECEMBER, 1963

## Previews Federal Laws

The meeting opened with a welcoming address by Dean Warren of Columbia Law School. An address by Jack Greenberg, Chief Counsel of the NAACP Legal Defense Fund followed. The subsequent program consisted of round discussions on the following topics:

At the close of the afternoon session, the students attended a buffet dinner where they were addressed by Judge Skelly Wright of the U.S. Court of Appeals.

**SBA Announces  
Holiday Dance**

Representative Corman remarked that a key step forward in the proposed legislation is the provision with regard to privately-owned public accommodations. He pointed

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## Prominent BLS Trustee

Mr. Windels, who received his Bachelor of Laws degree from Brooklyn Law School in 1909 and his doctorate in 1910, has had a long and distinguished career as a practicing attorney and public official. The many public positions of responsibility held by Mr. Windels include service as counsel to the New York State Bridge and Tunnel Commission, as associate counsel of the Port of New York Authority, and as Corporation Counsel of the City of New York.

Past recipients of the Distinguished Alumni Award include Justice Nicholas M. Pette, '16; Dean Jerome Prince, '33; Justice Bernard Botin, '24; Justice George J. Beddox, '24; and Professor Richard I. Maloney, '27.



## Freshmen View Court Activities

The Law School's program, which has been noted in the press, is made an adjunct to a broad program of the Supreme Court entitled "A New Adventure and Concept in Civic Education." It was inaugurated in March, 1959 shortly after the dedication of the new Courthouse and has been the subject of much favorable comment in the newspapers and professional journals.

After a word of welcome from Mr. Mangano things are under way.

The unique feature of the program is that it is designed to give a "behind-the-scenes" view of the Court—something more than that which any spectator might see by merely walking into a courtroom. One group might be shown how jury panels are chosen (Mr. Mangano is at first taken aback when he is told that the jurors are chosen by lot), how a juror is selected (one juror might be witnessed and the first-year student learns—again perhaps to his surprise—that skills in advocacy come into play at this early and seemingly perfunctory stage of a trial. The

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# The Justinian

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## A Time For Change

Lawyers are not created by law schools. Three years of study, and the average law graduate has a large collection of notes, numerous books, and very little appreciation of the problems of a practice. As a result, the novice is rarely fully prepared to practice until he has obtained the necessary experience. Because of the work pace that presses the average lawyer, it is infrequent that the lawyer has time to properly train in his office the recent graduate or the newly admitted attorney. This is harmful to both the lawyer and the profession; without conscientious training, the future of the new crop of lawyers to develop full professional skills will inevitably result in injustice to the client by reason of the neophyte's mismanagement. What can the student do to help; what can the law school do to help?

Clerkship during law school is not always possible. The average law student's work load may prohibit the added burden created by a part time legal job. Married and financially pressed students may find the compensation insufficient and there indeed may be other reasons that make clerkship impractical during law school years. But the student who finds himself with time and resources sufficient to permit additional work, may well benefit by part time employment in a law office. Menial though the work may seem to him, it is basic work to any practice; the contacts and the associations with experienced members of his chosen profession are invaluable. Familiarity with forms and with terms, with professional office procedures and with applications of law school theory to trial and appellate presentations can give the student an insight into the nature of the law both as a business and as a profession.

The law school can also help the student here. Enough substantive law can never be learned; most law schools provide courses in adjective law. But these merely tell the student what to do, not how to do. Although time is restrictive, could not a law school present, for example, a three year course in legal clinics which would meet perhaps one hour each week? It should be taught by highly competent practitioners who could instill in the student, through lectures, through questions, through answers, an understanding of the office procedures and of the office problems that arise from day to day and implant within the student a feeling for ethical practice.

In the main, the problem faced by the law student is not great. But the potential gain that could be had from an understanding of practice, developed over three years of formal legal education is great. It would enable the student to perceive better the general content of his law subjects in their entirety. In a profession which is gaining more and more respect in the public eye each year, an extended course in legal clinics could foster more competent and more ethical practice.

—H.A.E.

## Civil Rights

(Continued from Page 1)

out that the bombing in Birmingham was probably an important factor in giving impetus to the Sub-Committee bill and stated that great credit is to be given the late President Kennedy and Chairman Celler in exercising the leadership needed to report the bipartisan bill of the Committee.

Timothy Jenkins was highly critical of some of the provisions of the proposed bill. Although many people are proclaiming that this is the strongest and most effective civil rights legislation, he said, there are many loopholes with regard to voting rights which make it possible for great abuse to be suffered with regard to enforcement in the deep south.

Professor Howe stated that the House Committee has improved the Sub-Committee bill by restricting the powers of the Attorney-General. He observed that the Sub-Committee provisions giving the Attorney-General power to act whenever there has been an infringement of constitutional rights was in reality so undefined that it will be ineffectual. He stated that a provision so "vaguely drastic" would have been slashed in the House, and suggested that a possible alternative might be to authorize class suits where there is a pattern of prejudice. He would have preferred the Administration's proposal concerning public accommodations, which was based on the commerce clause, rather than of the Committee, which is based on the Fourteenth Amendment. Under the Committee's bill, the states might be able to indulge in a series of delaying tactics to avoid the impact of the legislation.

The conference concluded with an organizational meeting. Students were invited to attend to learn more about the Students Civil Rights Council. Howard Slater, the director of the organization told the meeting how it began. Several law student interested in the civil rights movements had decided that the most effective way that they as law students could be of assistance would be through research to aid the small numbers of civil rights lawyers. These lawyers and civil rights organizations were contacted and projects were obtained and distributed to the students. There is presently also a summer program in which law students spend their summer vacation working in the south, assisting lawyers engaged in civil rights litigation.

Any interested students should contact Ruth Moskowitz, Room 505, Day.



Representing Brooklyn Law School in the 1963 National Moot Court Competition are from left to right: Richard Blum, Leonard Halpern, and Arthur Schwimmer.

## Klein Heads Inquiry

by RICHARD GOLDSWIG

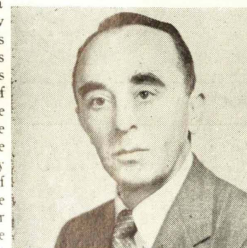
The legal profession, constantly guided by high ethical standards, has established, through the Appellate Division, Second Department, the Judicial Inquiry on Professional Conduct for that Department. The prime purpose of this institution is to investigate and, if the evidence warrants, to try charges of professional misconduct.

Appointed as its chief counsel is Professor Solomon A. Klein, a member of the Brooklyn Law School faculty. Professor Klein's function as chief counsel begins with an investigation of complaints of misconduct. Upon completion of this investigation, he presents the evidence he has obtained to the Additional Special Term of the Supreme Court, presided over by Justice Edward G. Baker. If Justice Baker finds that the evidence presented warrants further action, a report setting forth the evidence is prepared. This report is submitted to the Appellate Division which studies the evidence and affidavits and decides whether a filing of charges is warranted.

Should the Appellate Division find that charges are warranted, the charges are prepared and served upon the respondent attorney, who is given time to file an answer. The Appellate Division then determines if a hearing is required. If a hearing is found to be necessary, a special referee is designated to preside, with Professor Klein usually being appointed to present the evidence derived from the investigation.

Upon completion of the hearing, the referee files a report with the Appellate Division that sets forth the facts that he has found. Professor Klein now may move to confirm or disaffirm the referee's report. The respondent attorney also has the same option. The Appellate Division then reviews the entire case and decides what disciplinary action is necessary. The form of disciplinary action may range from reprimand to disbarment, pending upon the particular misconduct.

These proceedings must be and are conducted in an atmosphere of absolute fairness, for it is always kept in mind that the reputation and professional life of an attorney is at stake and is to be protected unless the evidence adduced supports the charge of professional misconduct. For these reasons, the proceedings are strictly confidential and the respondent attorney is given full rights to make his defense.



Professor  
Solomon A. Klein

## BLS Bows to Columbia In Heated Match

by WILLIAM A. COLTON, Jr.

The Brooklyn Law School team participating in the Fourteenth Annual National Moot Court Competition was defeated by the Columbia University team on Thursday, November 14, 1963 in the first round. Columbia went on to defeat the St. John's University team in the second round and was in turn defeated in the final round by New York University.

Arthur Schwimmer, on the Brooklyn team for the second straight year, who helped defeat Columbia last year, and Richard Blum presented the oral argument. Leonard Halpern was the third member of the team. The competition was sponsored by the Young Lawyers Committee of The Association of the Bar of the City of New York.

The problem concerned a defendant, Saul Scotch, charged with bank robbery. On the information of a reliable informant, he was placed under surveillance and a search warrant obtained. By use of a pass-key, he was arrested subsequently in his apartment. Loot and a shotgun were found therein. Relying on an alleged misleading statement of an Assistant United States Attorney, the defendant thereafter made inculpatory statements. Throughout his trial, Saul Scotch was manacled in the presence of the jury, after the judge decided, without a hearing, that his past history warranted this. The Brooklyn team prepared and argued the defendant's appeal from his conviction before a hypothetical United States Supreme Court.

Arthur Schwimmer argued that the entry into Saul Scotch's apartment was illegal. Since a pass key was used, regardless of the search warrant. Therefore, he argued, the invalidity of the entry and the ensuing arrest precluded the admission of incriminating evidence seized in the apartment.

Richard Blum continued the argument along the lines that the later inculpatory statements were the fruit of an illegal arrest and also that a misleading statement to the defendant, which induced his admissions, made them inadmissible in evidence. He also contended that the manacled, unsupported by any evidence beyond the prosecutor's hearsay statements, prejudiced the defendant.



Left to right: Assistant Dean Gilbride, Professor Meehan, Chairman of the Board of Justices; Justice Anthony J. DiGiovanna, Court Clerk Charles Solodkin, Administrative Director and General Clerk James V. Mangano.

## Court Program . . . (Continued from Page 1)

student first observes; then the reasons for what he has witnessed are explained to him. Often the attorneys themselves take "time out" to explain why they had asked a certain question; why they had momentarily challenged a certain prospective juror.

Perhaps the detention cells in the criminal division will be inspected; perhaps a motion part will be visited.

The group will then move on to a trial part, carefully preselected by Mr. Solodkin. The judge hearing the case invariably takes "time out" also, to explain the nature of the case, the stage of the proceedings, what the next line of questioning will be likely to bring out, and so forth. After adjournment for the day, the judge, if time permits, often holds a question and answer session.

And thus it goes. Everyone has taken "time out" from his own work solely for the benefit of the student visitors. The purpose of these visits is carefully pointed out throughout the afternoon. It is not to provide one single look at the inside of a courthouse; it is not to provide an afternoon's diversion; it is rather to make the law student feel at home in the surroundings in which it is hoped that he will spend a good part of his professional life. The welcome is emphasized and every student is invited and, indeed, encouraged to come into court as a spectator as often as he can find the time. Only by observing trial proceedings day after day, time after time, can he learn courtroom technique, decorum, presentation of evidence, making of motions, opening and closing to the jury, and other myriad details with which a competent trial lawyer must be familiar.

## In Memoriam

JOHN FITZGERALD KENNEDY

President of the United States

## Class Officers Elected

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		President	Paul Sessler

# Fraternity News

Iota Theta held its fall smoker on October 21 in Junior's restaurant. The brothers acquainted those attending with the principles and aims of the fraternity.

During the month of December an induction dinner will be held. The guest of honor shall be announced at a later date. At this dinner plans have been made to induct two honorary members. One of them shall be a member of the faculty at Brooklyn Law School and the other an outstanding member of the legal profession.

Prior to the induction of new members there are at present 75 active brothers.

Iota Theta will sponsor a series of lectures with the exact dates to be announced. Among the speakers will be Mr. Joseph Marino on "How to Take the Bar Exam" and Mr. Stan Nathanson, who is associated with the Cass-Cantuo Bar Review Course.

This year three brothers have been chosen for Law Review. They are Alan Cohen, Richard Weiner and Jeffrey Weingard.

Phi Delta Phi held its fall smoker on October 11 with approximately 200 freshmen in attendance. Refreshments were served and those attending were given some insight into the fraternity's purposes and standards.

On November 23, 1963 new members were initiated at the Inn. They will then join the entire fraternity at the 7th Regiment Armory in Manhattan at an induction dinner. The honored guest will be Dea John G. Hervey, Dean of Oklahoma City Law School and Past President of Phi Delta Phi.

At the commencement of the fall term there were 30 active brothers.

Three of the brothers have been selected for Law Review. They are Bill Aronwald, Larry Katz and Jerry Kirschbaum.

Barrister Inn of Phi Delta Phi, which is composed of graduate members from schools throughout the country, held its regular quarterly meeting on October 16, 1963. Several brothers from Brooklyn Law School were in attendance.

## Honors Program Commences

The Law School for several years has conducted an Honors Program. Under this program, students with high scholastic averages are invited by the Dean's office to participate in one of the two phases of the program. The research part of the program affords the student an opportunity of doing original research under the direction of a faculty member of his choice.

The second phase of the program is the Legislative Workshop. The Legislative Workshop considers proposed legislation, and submits reports to committees of the state legislature on specific bills and possible reforms in the law. During the current semester, the Legislative Workshop is studying in two major areas. One section is concerned with the proposed revision of certain sections of the Decedent Estate Law.

Another section of the workshop is studying certain proposed new

sections of the New York State Penal Law. These proposed statutes are concerned, among others, with the crimes of conspiracy, burglary, arson, larceny and perjury.

Since the staff to serve on the Law Review is limited by its very nature to a relatively small number of students, the faculty thought that there ought to be some program where other capable students might have a similar opportunity to do original work. The Honors Program was devised to accomplish this purpose. The Honors Program is under the general supervision of Assistant Dean Gilbride; Hon. Thomas F. McCoy, State Administrator of the Courts, and a member of the faculty, is director of the Legislative Workshop. Other faculty members who are participating during the current year are Professors Samuel Hoffman and Milton G. Gershenson.

## Law Review to Feature Judge Sobel on NYC Crime

The December 1963 issue of the *Brooklyn Law Review* will be published shortly.

There will be leading articles on *Tax Problems in Separation Agreements*, by David M. Garelik; *Crime in New York City*, by Judge Nathan Sobel; and *Suppression of Evidence and Introduction of Perjured Testimony by Prosecutors*, by Professor Ronald Sklar.

In addition, there will be an article on recent statutes concerning the administration of small estates, by Professor Wrigley. Professor W. S. Herrmann has a comment on Problems in Connection with Rights of Election.

The issue will also include six Student Notes: *Property Rights in Matrimonial Actions*, by Richard T. Farrell; *Appearance under the CPLR*, by Roy Broudy; *Section 177 of the Code of Criminal Procedure*, by Benjamin Ward; *New Murder Punishment*, by Hetty S. Rosen; *General Obligations Law*, by Barry Steiner; and *Section 145 of the Domestic Relations Law*, by Arnold Kideckel.

The Book Review section will include four reviews: *Admiralty Law of the Supreme Court*, by Allen van Emmerik; *The Corrupt Judge*, by Jerome Carlin; *Jefferson and Civil Liberties: The Darker Side*, by Professor Morris D. Forkosh; and *Carmody-Forkosh New York Practice*, by Professor John J. Meehan.

The Editor-in-chief for this issue of Law Review is Richard T. Farrell. The Faculty Advisor to Law Review is Professor Milton G. Gershenson.

## Jury Bias Revealed

by MICHAEL LACHER

A recent study conducted by the Research Center of the College of Business Administration of Fairleigh Dickinson University has pinpointed jury prejudices in an effort to aid the trial counsel in selection.

Five hundred volunteer men and women from all parts of the United States were given tests that permitted them to act out their conscious and unconscious prejudices in the jury situation. Upon completion of the examination they were interviewed to find out why they favored some people and opposed others. For proper classification of the results of the tests, attorneys were also interviewed to clarify the jury selection process. They described how they picked juries and the kind of people they tried to keep off juries.

Classification of the results showed that there were eleven characteristics that influenced jurors' opinions of claimants. These were age, sex, education, occupation, religion, race, income, ethnic background, political affiliation and marital status. Those most often subject to bias were sex, income, religion, education and occupation.

The study produced some interesting results. For example, that women have less chance of getting a fair trial than men, that jurors in low income brackets are more apt to be hostile to women and that women jurors frequently are biased against women claimants.

Furthermore, housewives were found to have hidden bias against the rich and women claimants are more apt to get friendly treatment from salesmen and office workers.

Income bracket definitely plays a large part in jury bias. The survey found that those who earn between seventy-five hundred and fifteen thousand dollars are subject to the least amount of bias from juries. They earn enough to be respected, but not so much that they can be thought of as looking down on the masses.

Persons earning less than five thousand dollars per year are more biased against those who have only an elementary education than they are against the unemployed — and most people are prejudiced against the unemployed.

Salesmen have unconscious prejudice against all lower income groups and a definite prejudice in favor of upper income people, readily attributable to their own occupational breeding.

While the information produced by the study is certainly a valuable aid to the practicing trial counsel, it must not be regarded as a crystal ball for the selection of juries. Regional prejudices and differences are still weighty in the mind of the individual juror. However, knowledge of the prevalence of such bias should help to keep the scales of justice evenly balanced.

## CONDOLENCE

The staff of *The Justinian* wishes to express condolences to Professor Sugarman, on the recent passing of his mother.

# ALUMNI IN CURRENT NEWS

**1935**  
Richard Farrell, Brooklyn Law School student, was one of the ten outstanding students, each representing one of Brooklyn's colleges, who received a citation from the Better Brooklyn Committee. He was also installed as a member of the Junior Advisory Board of the Better Brooklyn Committee.

The presentations were made at the Inaugural Dinner Dance held at the St. George Hotel on Saturday evening, October 26 by Congressman Hugh Carey. The keynote address was delivered by U. S. Senator Kenneth Keating. Abe Stark and Gil Hodges were honored in Absentia.

**1905**  
LOUIS CHARLES WILLS announced his association with Wrenn and Schmid, 26 Court Street, Brooklyn, N. Y., with whom he will continue the practice of law. Mr. Wills who has had a distinguished career as a lawyer, a citizen and philanthropist. He was secretary and trustee of Brooklyn Law School as well as past President of the Alumni Association. Mr. Wills has also been President of the Brooklyn Chamber of Commerce, President of the Board of Trustees of the Industrial Home for the Blind and Chairman of the Long Island Tercentenary Celebration.

**1909**  
HENRY WARD BEER is Honorary President of the Federal Bar Association of New York, New Jersey and Connecticut.

**1929**  
NATHAN GOTTESMAN has been elected Deputy Chancellor of the Knights of Pythias for the 8th District of New York State.

**1935**  
I. HERMAN HIRSCH announced the removal of his office to 1129 Lexington Avenue, between 78th and 79th Streets, New York 21, New York.

**1942**  
JAMES S. BROCK, assistant counsel of National Life Insurance Company has been promoted to general counsel.

**1959**  
LAWRENCE BUTNER has been elected vice-president of Albert Frank-Guenther Law, Inc., National Advertising and Public Relations Agency.

**1960**  
STEVEN FREY announced his association with the firm of Johnson, Zimbalist and Tannen, 401 Broadway, New York, New York.

NORMAN H. SCHAMBERGER announced the location of his new law office at 277 Broadway, New York 7, New York.

**1961**  
JEROME L. LIEBOWITZ announced his retirement from the law firm of Milmed and Feder, in order to begin private practice. His new office is located at 2 North Dean Street, Englewood, New Jersey.

**1962**  
JOSEPH S. BULGATZ has been appointed by the City to the Triboro Bridge and Tunnel Authority.

MICHAEL A. GALLO has been admitted to both the New York and New Jersey Bar. He is associated with Lamb, Blake, Hutchinson and Dunne of Jersey City, New Jersey.

**1963**  
BRUCE H. BERRY has been appointed to the Legal Department of the National Labor Relations Board, Los Angeles, California.

MICHAEL H. WANK is associated with Blum, Tolles, Haimoff, Szabad and Gersen, 9 E. 40th St.

## Necrology

Roachford, Samuel B., '05.

Eilperin, George, '17, Supreme Court Justice Eilperin had been previously chief field officer and at times, acting Collector of Internal Revenue for the district composed of Kings, Queens, Nassau and Suffolk Counties. He was chairman of the Republican Law Committee of Kings County and had been on the City Court for ten years when he was elevated to the Supreme Court in 1958.

Rudolph, Harold W., '20, for twenty years he was counsel to the Seaboard Surety Company and he was named Secretary to its Board of Directors. On his retirement in 1958 he became counsel to the law firm of Engelman and Hart. Since 1960 he had his own law office.

Hart, Albert Edward, '24, he was on the Committee on Grievances of the New York City Bar Association.

Wagman, Abe, '34, Assistant Attorney General in charge of the Appeals and Opinions Bureau of New York State Department of Law.

Sealy, Lloyd G., '32, Lieutenant in the New York City Police Department. He attended the F.B.I.'s National Academy in Washington.

## Trial Lawyers Conduct Seminar

by CHARLES BEZINOVER

It is a fundamental principle of tort law that a wrongdoer is liable for all the consequences which naturally flow from his act. This is subject, however, to the caveat that the tort-feasor must take his victim as he finds him. Consequently, if an inquiry causes or contributes to cause the development of a pre-existing disease, the person liable for the injury is liable also for the resulting aggravation. The New York State Association of Trial Lawyers had occasion to examine these principles in depth, when on October 19 and 20, at the Waldorf-Astoria, they conducted a Seminar on the Aggravation of Pre-Existing Injuries Due to Trauma.

The first day of the seminar was devoted primarily to an intensive analysis of the effect of trauma upon specific organs of the body. The initial discussion related to Traumatic Aggravation affecting the Cardiovascular System. Dr. Edward S. Wally, after a brief description of the mechanics of the heart and circulatory system, proceeded to analyze traumatic aggravation at it affects: 1) congenital heart defects; 2) valvular defects; 3) hypertensive heart disease (enlarged heart) and 4) arterial sclerosis.

The next segment dealt with traumas affecting the Mind and Personality. The discussion centered on definitions of Psycho-Neurosis (that state of mind where the individual is aware of reality but does not function well within it) and Psychosis (where the individual is not aware of reality). Particular attention was given to Conversion Hysteria (the physical manifestation of a functional condition) and to the Malingers (a person who feigns sickness or any physical disablement for the purpose of avoiding work).

The seminar then continued with a discussion of Traumatic Aggravation of Arthritis and Traumatic Aggravation involving Cancer and Tumors. The final discussion related to the gastro-intestinal system and especially to the Traumatic Precipitation and Aggravation of Ulcers.

Although the seminar was highly technical and presupposed an extensive knowledge of human anatomy and physiological functions, nonetheless it was possible for the lay law student to derive benefit from these lectures. Furthermore, in having an opportunity to listen and observe the masters at the plaintiff's bar, the student had the advantage of seeing the theories of the classroom become the realities of the courtroom.

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