

The Justinian

Volume 1968
Issue 3 *December*

Article 1

1968

The Justinian

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Recommended Citation

(1968) "The Justinian," *The Justinian*: Vol. 1968 : Iss. 3 , Article 1.
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THE JUSTINIAN

BROOKLYN LAW SCHOOL



VOL. XXIX, No. 2

DECEMBER 20, 1968

BROOKLYN, NEW YORK

New Faculty Unit To Consider Student Problems, Complaints

Dean Jerome Prince has established a Faculty Committee on Student Relations. The Members of the Committee are Professors John J. Meehan, Chairman, Philip K. Yonge, Eric Nightingale, and John A. Ronayne.

The function of this committee is to receive student problems or complaints and solve them where possible.

Where it is not possible to solve the particular problem within the committee, it will refer the matter to the administration or to the full faculty with the recommendation of the committee.

Any student with a problem may present it directly to any individual member of the committee during his office hours. Or if he prefers, a student may present his problem to the Student Bar Association, or any other student group, which may then submit the problem to any member of the committee.

If the individual member of the committee cannot solve the problem, a written statement of the problem will be prepared by the student and the committee member and submitted to the full committee for consideration at its next meeting. The individual student or Student Bar representatives will be notified of the date of the next meeting of the committee and may present the problem personally to the committee at the meeting. A report of the action of the committee will be given to the student or Student Bar representative in person or in writing.

Prof. Oliver Morse Discusses Impact of 1964 Rights Law

By NAOMI WERNE

"If you can't touch the conscience, you might get results if you touch the pocket," observed Professor Oliver Morse, in a lecture on Title VI of the Civil Rights Act of 1964 given on November 12th, at BLS.

Title VI: *Nondiscrimination in Federally Assisted Programs*, empowered the Department of Health, Education and Welfare (HEW) to cut off funds from state secondary and elementary schools unless there is compliance with the desegregation requirements of that agency. Professor Morse stressed that the charge of former Presidential candidate George Wallace that Title VI has closed a substantial number of schools in the South was exaggerated.

"Many Schools are closed in the sense that one of two formerly segregated high schools will now be an annex of a single named integrated high school," Professor Morse stated. "The school is not a separate entity; there has been consolidation to keep federal money in most cases, not large-scale

(Continued on page 6, col. 4)

Students Assist In Evaluation Of 'Judicare'

By STUART JAY KATZ

Brooklyn Law School students recently gained valuable experience in a law related project by evaluating the new "Judicare" program.

Funded by the Federal Department of Health, Education, and Welfare (HEW) and administered through the Legal Services Office of the Nassau County Department of Social Welfare, Judicare is a legal aid program where by the poor are provided with topnotch legal services.

The indigent are allowed to choose their own attorneys and are furnished with a list of competent local lawyers if they do not have a lawyer.

Upon completion of the legal services, the attorney files a claim with the Legal Services Office, which processes the claim and gives a check to the needy person. The check is then countersigned by him and given to the attorney, thus maintaining the client-attorney relationship.

Through field interviewing, BLS students and other members of the panel evaluating Judicare concluded that the program offers the same kind of competent legal counseling to the poor as is employed by the more affluent members of our society.

Fault is with the small staff and inadequate physical facilities. Expansion and improvement are expected in the future. According to a recent survey, local members of the Bar approved of Judicare and were willing to participate, although they found the schedule of payment for legal services as set up by HEW too low.

In addition, our students found that most of the actions were brought in the fields of landlord-tenant relations and domestic relations, and that most ended in favorable decisions for the indigent.

In general, the evaluation of Judicare revealed that competent legal services were provided to the poor with favorable results. In the future, it is hoped that Brooklyn Law School students may actively engage in research and counseling for indigents with the supervision of established attorneys.

Surrogate - Elect Named '68 Distinguished Alumnus

By LEONARD SANDS

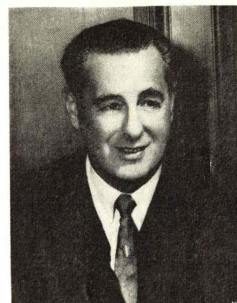
The Hon. Nathan R. Sobel, jurist, educator, and author, has been named "Distinguished Alumnus" of Brooklyn Law School for 1968. The honor, which recognizes Judge Sobel's important contributions to the field of Criminal Law, will be conferred by the BLS Alumni Association during its luncheon December 21 at the Plaza Hotel.

Judge Sobel, now Surrogate-elect for Kings County, began his public career in 1939 with an appointment as counsel to Gov. Herbert H. Lehman.

He held that position until November 1942 when he was elected a County Court Judge of Kings County.

He was elevated in 1962 to the Supreme Court, Second Judicial Department, and still holds that office.

Judge Sobel was elected a delegate to the 1967 Constitutional Convention, and last month by unanimous choice of the parties, was elected Surrogate of Kings



Justice Nathan R. Sobel

County, a capacity he will assume January 1, 1969.

The jurist enjoys a national reputation as an author and lecturer, especially in Criminal Law. His books—*Current Problems in Search and Seizure* (1964) and *New Confession Standards* (1966) have been universally acclaimed by Bench and Bar.

Judge Sobel has lectured at many law schools, bar associations and legal forums, and his talks have been noted and distinguished for their clarity of thought, demonstrated through explanation of legal principles.

Bar Examination Results Speak Well For BLS Program

BLS grads continued another tradition of its alumni with an outstanding percentage of graduates who passed the New York State Bar Examination on their first attempt.

This 87.4 percent, represents the ratio of graduates last term passing the examination, to the total number of graduates whether taking the examination or not.



Dean Jerome Prince

degree from Brooklyn Law School in 1933, summa cum laude; the year following, the Doctor's degree, again summa cum laude. At the graduation ceremonies I received several awards, and I was also one of the founders of the Brooklyn Law Review, and served as its editor-in-chief. I'm a member of various bar associations—The American Bar Association, the New York State Bar Association, the Bar Association of the City of New York, New York County Lawyers Association, and the Brooklyn Bar Association. I am active on committees of these bar associations, and I have served two

terms as trustee of the Brooklyn Bar Association. I may also add that I hold the honorary LL.D. degree from Brooklyn Law School, am a member of the Board of Trustees of the School, and I am also Chairman of the Board of Trustees of the Supreme Court Library in Brooklyn. I am married, have two children, both daughters, both attending college. We live in the City of New York.

Justinian: Dean, I'm sure the students would like to know if you have any hobbies, and, if so, what are they?

Dean: These days there's not too much time for hobbies, not with the construction of the new building, the operation of a school, teaching and the like, but, in the past, together with my brother, I had written a number of detective and suspense stories, some of which have appeared on radio and also on television.

Justinian: When did you begin teaching at Brooklyn Law School, and under what circumstances?

Dean: I began teaching part time in 1934 while I was practicing law, and continued until approximately 1937 as a part-time member of the faculty, and in September of that year became a full-time member of the faculty.

Justinian: Have you ever taught before? What subjects do you teach, and why do you teach these particular subjects?

Dean: In recent years I have confined my attention to the subject of Evidence, which is a specialty of mine, and I have taught it for a great many years and written in the field. I have participated in conferences with almost every court in this state concern-

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EDITORIAL:

Duty, Honor, Country

"We will not lie, cheat, or steal, nor tolerate among us those who do."—the West Point Honor Code.

"Just remain seated until I can locate one of the elegaic operators to escort you to the lavatory."—Proctor at a Brooklyn Law School Final Examination.

It would tragically appear that a higher duty is imposed upon those who would protect the governed, than upon those who would themselves govern. Too often we hear lamented the sad state of disrepute and distrust in which the legal profession is regarded by the masses of people. Where is the response of the profession to be seen?

Tocqueville observed 130 years ago that: "The lawyers of the United States form a party which is but little feared and scarcely perceived, which has no badge peculiar to itself, which adapts itself with great flexibility to the exigencies of the time, and accommodates itself without resistance to all the movements of the social body. . . . The people in democratic states do not mistrust the members of the legal profession, because it is known that they are interested to serve the popular cause; and the people listen to them without irritation, because they do not attribute to them any sinister designs."

The legal profession has tolerated the current obloquy for too long. It is incumbent upon all levels of the profession to institute effectual programs for recapturing both the esteem and the imagination of the people.

As the seventh largest law school in the United States, BLS is capable of making a singular contribution to the redemption of the privileged position of the lawyer, through the integrity of the students it sends into the profession.

An Honor Code should be instituted at Brooklyn Law School. The words alone seem to strike terror in the heart of the student. Yet, such a system is merely a formal method of expressing that which is presumptively an integral part of a lawyer's conduct. The law student is in a very real sense a member of the legal profession from the moment he enters law school. It is therefore incongruous and intolerable that he be governed by a standard separate from that of the remainder of the profession.

An Honor Code is eloquent in its simplicity. It means that a student will not lie, cheat, or steal. The Code requires complete integrity in both word and deed. Under no circumstances will a student take unfair advantage of his classmates. The maintenance of these standards is the responsibility of each student, and each student is expected to report himself or any other student for violation of the Honor Code. Any intentional violation is cause for dismissal from the Law School.

To those who would oppose such a Code the response is direct. Is American democracy so omnipotent that it can entrust its conscience of laws to the care of moral bankrupts?

We think not.

A Light In The Darkness

The Dean has announced the creation of a Faculty Committee on Student Relations. He is to be commended for this forthright demonstration of good faith in response to a reawakening sense of responsibility on the part of BLS students. All students are urged to consult with the distinguished members of this Committee.

Too often, administrative innovations have been permitted to languish as a result of student disinterest. A case in point is the Instructor who has made himself available for consultation with students for an astonishing total of sixty hours each week. He has yet to have any students call upon him in his office.

Law and Order

Tocqueville wrote: "... Lawyers are attached to public order beyond every other consideration, and the best security of public order is authority. It must not be forgotten, also, that if they prize freedom much, they generally value legality still more; they are less afraid of tyranny than of arbitrary power. . . ."

In the light of this statement reconsider—Chicago, Columbia University, and Ocean-Hill Brownsville.

THE JUSTINIAN

PUBLISHED QUARTERLY DURING THE SCHOOL
YEAR UNDER THE AUSPICES OF THE STUDENT

BAR ASSOCIATION OF

BROOKLYN LAW SCHOOL

375 PEARL STREET, BROOKLYN, NEW YORK 11201

VOL. XXIX, No. 2

DECEMBER 20, 1968

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Concerning Civil Disobedience . . .

By ROGER ADLER

Civil disobedience, in its classic sense, occurs when man can no longer obey his society's laws and still live with himself. At its best it has integrated lunch counters, and at its worst acted as a cover for the looting mob.

It was the tool of Ghandi and Martin Luther King who believed it would set men free. At its worst it breeds Rap Brown and Sonny Carson who would destroy. It is, how it is used, but it will never go away.

When the United States and its allies convened the War Crimes Trials in Nuremberg, they were saying that in certain cases, to follow orders is no defense. We told the Germans, and all the world that in certain cases, personal conscience must impel men to disobey the orders of their State. The standard we forced upon the Germans is now forced upon us, unless we are willing to formally repudiate and overturn our past.

We condemned the Germans for supporting the Nazis regime. Yet today, when young people refuse to serve in what they contend is an immoral, if not illegal war (Gulf of Tonkin Resolution notwithstanding), they can expect a federal judge to mete out a four year sentence. Then we say, "Well this war is different from World War II." But who shall play God and say when Nuremberg principles do not apply?

The same problem can be seen in the area of integration. For years the Blacks rode in the back of the bus—and they knew to keep a civil tongue. But until a tired Negro maid refused to heed a bus driver's warning, "Move to the back Niggub," it looked like Jim Crow would be with us forever. This incident and others like it sparked the Martin Luther King led Montgomery bus boycott which finally resulted in the end of segregated bus service.

Integration came to the lunch stand only when Negro college students grew tired of being refused service and being told to go away. So there was illegal trespassing, shopping boycotts and sit ins. The culmination of this was the enact-

ment of the widespread Civil Rights Act of 1964. A law which was passed because acts of civil disobedience finally forced the nation to take moral stock of itself, and in found itself wanting.

But these areas are popular in the liberal community. If the liberal can resort to civil disobedience to reach his end and justify it on grounds of conscience against an immoral war or law, can not the conservative or reactionary use civil disobedience to his end as justification for an act of conscience. Why not sit ins to return prayers to public schools? Were not Orval Faubus at Central High School, Ross Barnett at Ole Miss, and George Wallace at the University of Alabama and those like these men similarly exercising their right of civil disobedience in protest over integration? Are these groups any less adamant in their feelings than groups we may approve? Where does one draw the line?

The current craze for "lawn-order" should be no surprise. It is partially the product of those who too readily feel that civil disobedience is the only answer, "now." This decision far too often arrived at before all other avenues of redress were closed.

If one is willing to concede that under certain circumstances civil disobedience is justifiable, one must be careful as to the means of exercising it. While a peaceful sit in or a "March on Washington" may be cheered, can the same be said for sit ins at a university when the result is the cancellation of all classes, or for spraying oven cleaner on Chicago police.

I have always, perhaps naively, considered that civil disobedience should force others to reconsider their position, and its aim was to appeal to conscience. I fail to see how tossing bags of urine out of hotel rooms onto Chicago police, impels anyone to reconsider anything. It demeans the participant and hardens attitudes.

As demonstrated by H. D. Thoreau in *Civil Disobedience*, the classic model consisted of passively breaking the law, being convicted, and then appealing over the court

Northeastern Overhauls Law Program

Northeastern University in Boston, Massachusetts has overhauled its school of law to provide a four year course leading to a J.D. degree and has added 15 months of work in law offices, as a requirement for graduation.

The program, considered a significant innovation in legal education, enables students to alternate between an academic quarter of full-time instruction and a similar period of compensated full-time work in law offices.

Admission to the school is highly selective, with 23 students in the first class, following rejection of 80 per cent of the applicants.

The school said its high standards would make the students attractive to law offices for job training.

A new building is under construction specifically designed for the needs of the school.

to the people. "Do you really want the Vietnam War enough to put me in jail?"

But now we see a new pattern. Those who break laws seek amnesty and hire lawyers who "cop pleas" for them. I do not think Ghandi or Thoreau ever considered copping a plea.

For as concerned as those who invoke civil disobedience are, they are rather casual about the civil liberties of others. Those who drown out an unpopular speaker, pour blood on draft files, or destroy a professor's private papers, would be the first to complain if their civil liberties were being violated. There must, logically, be some reciprocity.

These are dangerous times. At no other time have governments been so unresponsive to their citizens, yet so capable of self destruction.

The old politics and the old ways can no longer lead us. It is an age of one man one vote, and citizen participation. We must adapt ourselves such that the majority will be served without exploiting or destroying the minority. Allowance must be made for those who walk to the beat of a different drummer.

If our country cannot be made to work then none can, and we will live our lives amidst the fear and the hate. To do so is not to live but to exist . . . a hollow shell in a world called Hell.

Blood Drive Announced

The school's annual blood drive has been scheduled for early March, 1969.

Persons wishing to learn more now about the appeal, which has met with great success in recent years, may contact the drive's director for BLS, Prof. Morris Forkosh, or J. D. Forchelli, Room 300, Seat 21.

Additional information will appear in later issues of The Justinian.

Challenge Questionnaire of Character committee

By WARREN PEZETSKY

Three law school graduates have challenged as unconstitutional the questionnaires which they were required to fill out by the Appellate Division's Committee on Character and Fitness.

The three students have all passed the bar examination but have been refused admission to the bar because they have refused to answer the thirty questions on the questionnaire.

In a challenge before a three judge panel in United States District Court, the three students in arguments presented by the New York Civil Liberties Union and the National Emergency Civil Liberties Committee contended that the questions concerning their past political associations violated their first amendment rights.

The three students who refused to answer are Gabriel Kaimowitz and Stephen Wexler of New York University Law School and Robert Cover of Columbia Law School. Mr. Cover is now a faculty member at Columbia.

The questionnaire that is being challenged contains the statement that refusal to answer, "may result in denial" of the application to practice law.

David W. Peck, retired Presiding Justice of the Appellate Division, First Department, in defending the questionnaire on behalf of the First and Second Departments of the Appellate Division, called the questionnaire a "proper inquiry", and said an applicant would not be denied admission because of his political associations.

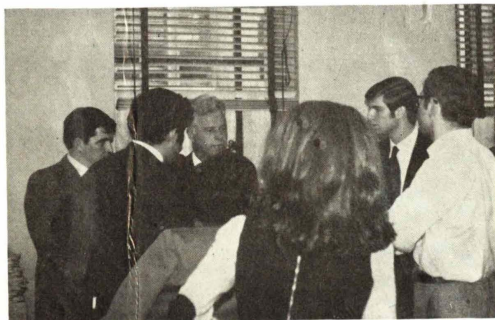
Leonard Boudin and Alan Levine, attorneys for the three students, however, stated that because of this questionnaire, only the bravest of law students would join any controversial organizations.

Student Bar Sponsors Tea

By STUART JAY KATZ

On October 15, 1968, the Student Bar Association sponsored its annual tea to provide an opportunity for general discussion and questioning between the entering freshmen class and various members of the faculty and also with leaders of student organizations such as the Student Bar Association, the

tion some of those who attended. Professor Joseph Crea was involved in a vibrant discussion with several students on the topics of the coming election, the candidates, and the political conventions, while Professor John A. Ronayne commented upon how the law student can perform legal work in



Asst. Dean Gilbride speaks with interested students.

Justinian, Moot Court, the fraternities, and the Brooklyn Law Review. More than fifty freshmen enjoyed themselves along with Dean Gerald A. Gilbride and Professors Richard T. Farrell, Morris D. Frokosch, Israel L. Glasser, Fabian G. Palomino, Donald F. Sealy, and Philip K. Young to men-

addition to discussing the problems of the striking teachers in the city schools and the problems of city slums.

The refreshments were of exceptional quality; it was unfortunate that some food was left at the close of the tea due to the lack of student attendance.

Over 40 Graduates Elected to Office

By STEPHEN SILVERBERG

Brooklyn Law School has distinguished itself for having the highest percentage of its alumni in private practice in the nation. For many years BLS alumni have also contributed to our society as judges, Congressmen, State Senators and Assemblymen. In this past election, BLS alumni continued this tradition, over forty graduates being elected or re-elected to New York City and New York State posts. The students, staff and administration of Brooklyn Law School congratulate these graduates on their successful campaigns and look forward to their continuing our tradition of service to the community.

To the best of our knowledge, the names of these alumni and their offices are as follows:

Necrology

William J. Zucker '27 served in the U.S. Immigration and Naturalization Service for 25 years.

Philip Bareish '30 became the Justice of the Village of Lake Success in April, 1968.

John Maurice Kessing '31 was an international lawyer and chairman of Programming for Utilization of Resources, Inc.

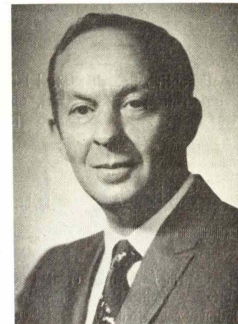
Emanuel M. Wolf '32. Mr. Wolf was an attorney who specialized in real estate law.

Eugene T. O'Neill '39, counsel for litigation for Equitable Life Assurance Society who received J.S.D., cum laude.

Robert Rothblatt '39, former Town of Liberty Town Magistrate, served on the Liberty town board for over two decades.



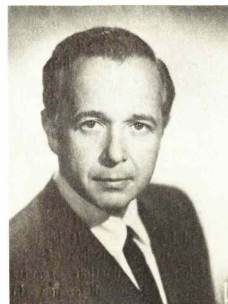
Justice Aaron Koota



District Attorney Eugene Gold

MANHATTAN
Supreme Court 1st Judicial District
Bernard Nadel, George Starke
Civil Court
Daniel M. Kelly, Clifford A. Scott

BRONX
State Senate
Thirty-second District: Abraham Bernstein
State Assembly
Seventy-ninth District: Manuel Ramos
Eighty-third District: Ferdinand J. Mondello



Congressman Bertram Podell

QUEENS
Supreme Court, Second Judicial District
Albert H. Buschmann, Michael A. Castaldi, Frank O'Connor
Civil Court
Kenneth N. Browne, F. William Guma
Representatives in Congress
Eighth District
Benjamin S. Rosenthal
State Senate
Tenth District
Seymour R. Thaler
Twelfth District
Martin J. Knorr
State Assembly
Nineteenth District
Herbert A. Posner
Twenty-fifth District
Moses M. Weinstein
Twenty-seventh District
Herbert J. Miller
Thirty-first District
Joseph F. Lisa (LLM)
Thirty-fourth District
Rosemary R. Gunning

BROOKLYN
Supreme Court, Second Judicial District
Irwin Brownstein, Harry Gittleson, Michael Kern, Aaron E. Koota, LL.B., LL.M., George N. Nichols, Murray H. Pearlman, Jacob J. Schwartzwald
Surrogate
Nathan R. Sobel, LL.B., JD
District Attorney
Eugene Gold
Civil Court
Henry Bramwell, Noah Goldstein, Abraham I. Kalina, Joseph M. Soviero, Frank Vaccaro



State Senator Abraham Bernstein

STATEN ISLAND
Second Municipal Court District
George M. Fleary
Eighth Municipal Court District
Morris J. Stein
Representatives in Congress
Eleventh District
Frank J. Brasco
Thirteenth District
Bertram Podell
City Council
Twenty-fourth District
Monroe Cohen
State Assembly
Thirty-seventh District
Samuel D. Wright
Forty-sixth District
Leonard M. Simon
Forty-eighth District
Leonard Silverman
Fifty-seventh District
Harvey L. Strelzin
State Senate
Twenty-third District
John J. Marchi (JSD)



SBA Executive Board: seated L-R, Sheila Feldman, Michael Hughes, Joyce Krutick; standing L-R, Greg Clark, Patricia Thompson, Cye Ross.

SBA REPORT

By MICHAEL HUGHES

Dean Prince recently created a Faculty Committee on Student Relations comprised of Professor Meehan, Chairman and Professor Young, Nightingale and Ronayne. The purpose of the committee is to resolve student grievances or problems. Any matter which is not capable of immediate disposition by the committee, will be submitted to the Administration or to the entire faculty for ultimate resolution. Although the student complainant may directly approach a committee member during his office hours, it would be more appropriate if the individual channeled his complaint through his SBA Representative. Since the Student Bar Association is theoretically the liaison between the Student Body and the Administration, the new committee can be most effectively implemented with the cooperation of the Student Bar Association.

In response to a scathing editorial attack on the SBA, which electrified the sensibilities of this writer, a number of organizational innovations will be introduced. A new Constitution is presently being drafted which will provide for a popular vote of members of the

SBA Executive Board which has traditionally been elected by a plurality vote of the House of Delegates. However, the procedure of limiting eligible nominees to the House of Delegates will be retained since only the class representatives are qualified and experienced to assume the responsibilities of the Executive Board. Additionally the class representatives will be reduced to two delegates in order to expedite the progress of the monthly meetings and to assign responsibility which can adequately be assumed by two individuals. Representation at the meeting will be complemented by one member of each extra-curricular organization.

Next year's Freshman-Faculty Tea will be scheduled subsequent to SBA Elections in order to give class representatives an opportunity to impress upon their colleagues this importance of this function.

The Curriculum Review Committee is presently entertaining the thought of First Year Compulsory Moot Court in conjunction with the course in Brief Writing. The Second Year Program will be retained on a voluntary, extra-curricular level.

Interview with the Dean

(Continued from page 1)

ing it, and it is, in a sense, my hobby as well as my vocation.

Justinian: What were the circumstances that led to your becoming Dean?

Dean: It's difficult to say. I was engaged in administrative work for years, and I held various positions. I was at one time assistant to the Dean, later Vice Dean, Associate Dean, and finally was made Dean of the Law School.

Justinian: Would you please give me your views on the quality of the student body this year at Brooklyn Law School as compared with previous years?

Dean: I would say that in recent years the quality of the student body has substantially improved; admission requirements have steadily gone up, and that has resulted, I think, in a vastly superior student body.

Justinian: In regard to this, Dean, most students seem to feel that because of the change in the draft laws, there has been added pressure put upon them. Would you please comment on the selective service system having an effect on the students and the quality of their work?

Dean: I have no doubt that the selective service system has affected the work of the student. Just how

much and in what way it is hard to say. An examination of the recent bar examination results reveals very little difference in the result of the June, 1968 graduating class and that of previous years. I do find, however, in the class, less direct interest than heretofore. I think that that may be ascribed to the pressure of the selective service system.

Case method limitations

Justinian: Regarding the academic program of Brooklyn Law School, would you comment on the following: the teaching of law by the case method only, and the importance of a compulsory Moot Court Program?

Dean: The case system is an ideal system for the first year, and possibly for the second year. It is not quite so helpful in the senior year. It is time consuming, preventing the instructor from covering as much ground as he might otherwise cover. What I do believe is that the case system must be supplemented in the senior year by other materials—problem materials and perhaps relevant non-legal materials.

Justinian: And in regard to the question of a compulsory Moot

Court Program?

Dean: I'm not in favor of a compulsory Moot Court Program if you are referring to a Trial Moot Court Program. There are two types of Moot Court Programs—one which deals with the Appellate Moot Court, and the other which deals with the Trial Moot Court. Not every student intends to become a trial lawyer, and it therefore would be silly to insist that everyone participate in the trial of a Moot Court case. I believe that that should be purely on a voluntary basis. So far as the Appellate Moot Court is concerned, I think we might very profitably consider making that program compulsory.

Justinian: There has also been talk of Brooklyn Law School having a possible affiliation with an under-graduate university. Would you care to comment on this?

Dean: Well, I might say that we would not wish to join a university unless the university has such prestige as would prove valuable to us. We have carried on negotiations with some universities, but we felt that we ought not go along with them. What we will do in the future remains to be seen.

Student involvement

Justinian: What are your views with respect to the right or permission given to law students to participate in administration of phases of law schools?

Dean: Well, as you know, we have a Student-Faculty Joint Committee on Curriculum at the present time, and this joint committee is holding meetings, and I don't know what they have decided or recommended. I dare say we'll have to wait and see. The student viewpoint should be represented, student recommendations should be considered, but it also seems to me plainly evident that a first year student would hardly have the same degree of competence and ability as, for instance, a veteran member of the faculty who has spent almost his entire adult life in the law and in legal education. How far the student can be represented is something we have to work out on a trial and error basis.

Justinian: How would you rate Brooklyn Law School in relation to other law schools, and what is the basis that you use in this rating?

Dean: I would rate Brooklyn Law School in the top one quarter of all the law schools in the country. I say this on the basis of our admission requirements, our attrition rate, the quality of our graduates, and the performance of our graduates. We have, I am convinced, an excellent law school.

Justinian: Can you tell us why the Law School is not a member of the Association of American Law Schools?

Dean: The principal reason is that we are not associated with a university. We were, as you know, for many years the department of law of St. Lawrence University. During World War II our association proved not to be a happy one, and we separated, becoming an independent, non-profit educational institution.

Justinian: Could you tell us of any benefits, if any, that we might be missing out on?

Dean: The only drawback in not being a member of the Association of American Law Schools is that some university law schools, Columbia, for instance, may not accept our graduates for graduate

study. Our graduates do, however, attend New York University's graduate school, Yale's graduate school, Northwestern's graduate school, among many others. The disadvantage is, from every particular viewpoint, of little importance.

My son the doctor?

Justinian: Law schools have recently eliminated the Bachelor of Laws degree, and now confer the degree of Doctor of Laws. Will attorneys now frequently refer to themselves as Doctor in speech and on legal stationery? What are your views on this matter, and can you tell us a little of the reasoning behind the change.

Dean: Well, in the first place, the American Bar Association has handed down an opinion which makes it unethical for holders of the J.D. degree to refer to themselves, either on their professional stationery or personal stationery, as Doctors, or even to call themselves Doctors. What value the J.D. has over the LL.B.? I don't think it has too much value, except for those who are engaged in educational or in government work. In the field of education—I'm talking now about elementary and high schools—and in the field of government, sometimes the amount of compensation will depend upon whether the man holds a Juris Doctor degree or whether he holds a Bachelor of Laws degree. The giving of the J.D. degree may entitle the occupant of the degree to higher compensation in these fields, but so far as any other phase of life is concerned, I don't think it makes too much difference. Now, I already hold two Doctors degrees. I hold an honorary degree of Doctor of Laws, I hold an earned degree of Doctor of Juridical Science, and I also have an LL.B. I could swap in my LL.B. for a J.D. and have three Doctors degrees. But I have never referred to myself as Doctor; I don't expect anybody to refer to me as Doctor; and I don't regard this as a matter of great importance. I might add that if you think of distinguished lawyers—let's take the late Max Steiner, for instance, does it make any possible difference to you, or to anyone, whether he had an LL.B. or a J.D. degree?

Justinian: Several years ago the subject arose of permitting law students to participate in actual trials and then certifying them as trial lawyers. You recently gave your views on this matter on national television. What are your

thoughts?

Dean: Well, I don't think that law students should try cases, except, possibly, in the most inferior courts. Where a man's life or liberty depends upon his trial lawyer, he is entitled to a man who has been admitted to the Bar, with some experience in the law. And that is likewise true in the civil case. I am inclined to believe that while law students can be of help to lawyers in the preparation of cases, in preparing memos of law, that it is not their function to try cases.

Justinian: In civil cases it has been claimed that the jury system is one of the causes for calendar congestion. Would you approve of the abolition of juries in civil cases?

Dean: My answer is no. I was the chairman of a sub-committee of the Brooklyn Bar Association entrusted with the task of making a recommendation on this subject to the Bar Association, and I voted with the majority in favor of retaining the jury system. I think the jury system is an important part of our judicial structure, of our traditions, and that it would be not a good thing, for many reasons which I need not specify now, to abolish it.

Value of juries

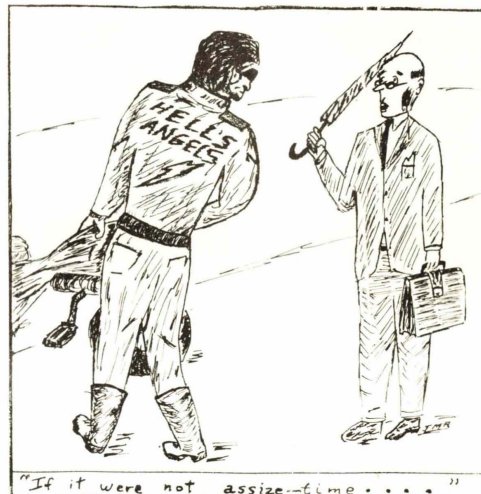
Justinian: Would you approve of the abolition of juries in certain types of civil cases, for example, contract cases?

Dean: No, contract cases may depend upon questions of fact. Whether one witness is credible, whether another witness is credible, which witness should be believed, these should be questions for the jury. When talking of contract cases, one might think only of the construction of a contract, but that is only one of many issues which may come up in the course of a trial. So far as the issues of fact are concerned, I would leave those to the jury.

Justinian: What are your views on the right of an individual or a group of individuals to commit overt acts of civil disobedience? Some prime examples recently have been teachers, school teachers striking, and draft card burning. What are your views on this matter?

Dean: Well, I do not believe in civil disobedience, except where a person wishes to test the constitutionality of a law, in which case he is ready and willing to subject himself to the normal process of the law. But civil disobedience as that term is used in the broad sense is not that—it is

(Continued on page 6)



Book at the Bar

By BERNARD KOBROFF

"The Warren Court, Constitutional Decision as an Instrument of Reform," by Archibald Cox, 1968, 144 pages, Harvard University Press, \$4.95.

The author is presently the Samuel Williston Professor of Law at Harvard and served as Solicitor General of the United States from 1961 to 1965.

The emphasis of this book is on the underlying pressures that forced the Supreme Court to rewrite "with profound social consequence, major constitutional doctrines governing race relations, the administration of criminal justice, and the operation of the political process", and the long range impact of these doctrines on the distribution of governmental power.

The book's unifying theme is that in the United States, unlike almost any other country, there is no political issue that cannot be converted into a legal question and thus force the Court to decide social, economic, political, and even philosophical questions in the guise of actions at law.

The underlying question that has caused the present furor over the Supreme Court, as well as past furors (Marshall's Court, Taft's Court) is what is the proper role of the Court in the American governmental structure? Should it take a creative, activist role or should it be characterized by self-restraint and deference to the legislative branch whenever possible?

The author feels that no Court can long take any one of these positions and remain free from controversy. The Warren Court's attempt to strike a balance between these two poles was influenced by what it considered "the dominant needs of the time and their embodiment into law."

The strongest need (pressure) on the Court was the demand for racial justice. The reapportionment decisions and the decisions concerning the administration of criminal justice show the Court's activity in fields that had been particularly neglected by the other branches of government. They also point up the great weight the Court places on the idea of egalitarianism. Also greatly valued by the Court is personal liberty and privacy (e.g. its decisions ranging from eavesdropping to marital privacy to invalidation of state loyalty oaths).

Many of the pressures that influence the Court often escape notice. The Court, for example, in the Civil Rights Cases had to phrase its decisions so that relief was granted and had to do it in such a manner that five Justices could agree on the holding. The grounds that these cases rested upon were not broad first amendment rights, but often narrow points of unconstitutionally vague or over-broad statutes.

The Court always had to find the demonstrators not guilty, as a decision against them, although it would probably be approved by lawyers, would have been interpreted by the people and the legislatures as possible judicial approval of the practices which the demonstrators sought to end.

The same idea, the author feels, must have influenced the Court in the apportionment decisions. A refusal to hear the case on the ground that a "nonjusticiable" question had been presented would have been accepted by lawyers as

reasonable, but to the people and the legislatures it would have been seen as approval of malapportionment.

The Court's desire to be the conscience of the country and yet the need to rest its decisions not on fiat, but upon principles which are accepted as applying to all men, past and futures, create a basic problem. The Court's power depends on moral acceptance that its decrees are based on long-standing principles and yet it faces the necessity of adjudicating present problems. To deny the past leaves the Court open to criticism that its decisions are only the pronouncements of nine men, and that its decisions are not "really" based on the Constitution, but may be changed simply by changing the men.

The Court's desire not to appear arbitrary and to have public approval for its holdings has been manifested by the great respect it has shown for legislative enactments in these troubled fields (witness the decision upholding the 1964 Civil Rights Act) and the great increase in power the Court has given the Congress (e.g. the field of voting rights).

The only branch of government that has really suffered at the hands of the Court has been the States (e.g. the field of criminal procedure). The Court has always been aware that legislation has the advantage of not only being the will of the people, hence more readily acceptable, but can cut to a finer edge in many areas (e.g. open housing than a statement of constitutional law).

This book does not consistently approve of the Court's decisions or the grounds that it chooses to decide them upon, but it nevertheless shows a great respect and admiration for a Court that each day is presented with many varied and complex problems.

In short it is truly valuable as a slim, easily read volume but chock full of thought provoking material that gives the student who is used to seeing only the trees a glimpse of the forest.

Legal Aid Club Setting Course

If the 25 second and third year students in the Legal Aid Club have any say in the matter, Brooklyn Law School may finally lose its reputation as the last great bastion of apathy. The club is attempting to provide an experience for students that is more meaningful and relevant than the ordinary required course.

Charging that apathy is simply a symptom of "the malaise that grips the student body," Myron Schonfeld, Legal Aid Club President, noted that regular courses do not engage the attention of the students after the first few weeks, when the initial fascination with a new discipline wears off. The Legal Aid Club is making it possible for students to apply their legal training to actual situations, as well as to help the poor who are in need of legal services.

Under the club's programs, a second year student can amass enough experience working under the auspices of the Legal Aid Society to qualify, under a court order, as a representative of an indigent person.

The Club's current program is

CURRICULUM COMMITTEE SELECTS ELECTIVES

By BERNARD KOBROFF

The Student-Faculty Curriculum Committee of BLS is now an operational entity, and it has already met on two occasions to discuss elective courses to be offered in the Spring.

The committee is composed of six faculty members:

Assistant Dean Gilbride, Professors Gershenson, Glasser, Meehan, Crea and Palomino.

Also, six students: Barry Horowitz and Bernard Kobroff, third year day; Randolph Jackson, Fourth year evening; Richard Schneyer, second year evening; and Stuart Parker and Charles Weintraub, second year day.

The faculty members of the committee were appointed by the Dean and the student members were elected by the student body.

As a result of the recommendations of the committee, the Student-Faculty Curriculum Review Committee's first two meetings were primarily devoted to discussions of the elective courses that will be offered in the spring term.

First year day students will be required to take three credits of elective work. They can choose from "Accounting for Lawyers" or "Insurance" (each two credits), and "Suretyship" or "Judicial Administration" (each one credit).

Second year day students will also be required to take three credits of electives. They can choose from "Urban Land Problems", "Equity", "Labor Law", or "Legal Protection of the Indigent" (each two credits), and "Legal Draftsmanship-Real Estate" or "Seminar in Tort Problems" (each one credit).

Third year day students may take any of these courses in addition to their regular program. These elective courses will be offered to night school students only if there is a request by 30 or more students for a specific course. A description of the course and the name of the instructor scheduled to teach it will be made known a reasonable time before registration.

Most of the meeting discussions centered on the content of these courses, principally "Legal Protection of the Indigent". This course, originally scheduled as one credit, was expanded to enable its fuller development and to have sufficient time to deal with its varied subject matter.

The course will consist of a series of lectures delivered by people with a superior working knowledge of such topics as rent control, consumer frauds, welfare rights, etc. A paper will be required in some selected area of the law covered.

The committee's attention will now turn to possible recommendations for long term change in the curriculum. Two proposals presently on the agenda are the feasibility of a compulsory moot court program and the creation of a more meaningful "Administrative Law" course.

The Committee's procedure will be to discuss specific proposals made by either students or faculty. These may concern the weighting or content of courses offered, the creation of new courses to fill gaps that presently exist in the curriculum, the consolidation of present courses to make room for new courses, as well as any other ideas (e.g. increasing the number of elective possibilities of first year students).

The coordination of a campaign, in conjunction with welfare rights groups, to obtain more telephones for welfare recipients. As part of the campaign, club members are representing the recipients at hearings.

As the Club grows, it hopes to become more sensitive to the needs of the people living in poverty areas and to serve their legal needs in any way possible. Eventually, Mr. Schonfeld hopes, the program can become a part of the regular curriculum.

that could result in the best curriculum possible.

Students who have proposals relevant to the curriculum should contact a student representative of the Committee.

The meetings have not been dull. On the contrary they seemed at times to generate a great deal of heat. However, as one committee member, tired and angered by the seeming "adversary" tone of the session, earnestly pointed out, student and faculty want the same goal, which is the creation of the best law school possible and both groups are here in good faith to attain this goal.

ATTRACTIVE NUISANCE

By EMILY NOVITZ '68)

THE PLACE

Blackacre, a fief on the road to Scope.

THE TIME

Lives in being plus 21 years.

THE CAST

The Fertile Octogenarian
The precocious Toddler
The Reasonable Illiterate
The Transient Domiciliary
Promimate P. Palsgraf
Lawrence, Fox and Friend
The Dissenting Shareholder
The Impatient Remainderman
The Prudent Pushcart Peddler
The BLS Midget
None of the Above

THE PROPS

1 Stack of Hop Poles
1 Swarm of Bees

COSTUMES

G. Hinman Barrett's raincoat
Dirty underwear

SPECIAL EFFECTS

Friendly fire
Res ipsa loquitur

SELECTED DIALOGUE

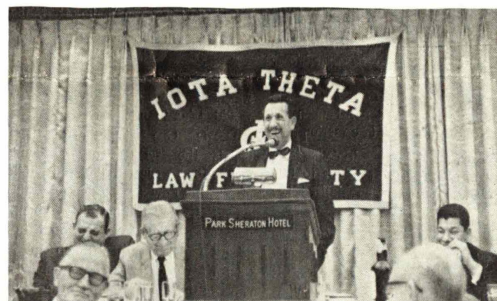
"There's no harm in asking."
"Don't touch my feet."
"Robert encoffed Kent."

FOODSTUFFS

Rose 2nd of Aberlone
Fructus Industriales

Fraternity Notes

By JACK COHN



Noted criminal lawyer Henry Rothblatt receives honors at Iota Theta Annual Induction Dinner.

Phi Delta Phi

The brothers of Phi Delta Phi are pleased to announce the successful completion of their pledge drive. The fraternity plans to hold an initiation ceremony for its new members during the first week of December.

The Magister and brothers wish to express their gratitude to Professor Richard T. Farrell, who has been serving for the past month as faculty advisor to the fraternity. Professor Farrell has also graciously consented to be initiated into the brotherhood at the same time as the pledges.

The initiation ceremony is a dignified and solemn occasion which follows the early traditions of the brotherhood as established in the medieval universities of England.

All persons interested in observing this ancient ceremony may inquire at the fraternity rooms.

Iota Theta

Professor Robert R. Sugerman presided at the annual induction dinner of Iota Theta Law Fraternity which was held in the Corinthian room of the Park Sheraton Hotel on December 4.

Henry B. Rothblatt, noted criminal lawyer, author and BLS alumnus; Emanuel N. Frankel Esq., a former Assembly candidate and BLS alumnus; and Professor Fabian G. Palomino were inducted as honorary members. Of 48 students inducted 23 were from the day session.

Among the guest speakers was Justice-elect Murry Pearlman of the Second Judicial Department of the Supreme Court of New York, a member of the fraternity for forty-seven years. Justice Pearlman spoke of the great heights brothers have risen. Five have become Justices of the New York State Supreme Court.

Professor Eric Nightingale presented plaques to fraters Ron Koppelman and Jim Halprin as "Pledge of the year."

Justinian Interview . . .

(Continued from page 4)

a defiance of the law for the purpose of changing it. And I think that the whole structure of the legal system requires that changes in the law be made by orderly process, that changes not be made by mass pressure exerted by sit-ins, strike-ins, or other behavior of that sort. It must be evident that if one group can do that, for what it considers to be a proper purpose, it cannot deny that right to another group to do precisely the same thing, for a purpose which the first group might regard as reprehensible. I repeat, it is perfectly sound and proper for a man to disobey the law, and to accept the consequences in order to challenge its constitutionality. I do not believe, however, that we can permit the law to be changed by groups committing willful acts of civil disobedience.

Job opportunities

Justinian: There are law firms today offering law school graduates salaries up to \$15,000. This has been mainly in the fields of corporate tax and estate law. What can you suggest to solicit well qualified, young attorneys to engage in criminal law where there is a crying need to defend the indigent person accused of crime?

Dean: The man who wishes to engage in criminal law must put aside for the time being the economic factors. He can enter the criminal law in either only of two ways. He may obtain a position as an assistant district attorney and represent the prosecution, or he may join a legal aid group, and be assigned to defend the indigent defendant. There is a great deal of satisfaction in the criminal law, and there is a wealth of experience for the young practitioner to obtain. Whether the young lawyer chooses to enter the criminal law will depend upon the degree of his social consciousness.

Justinian: What guide lines can you offer to a law student to help him to plan for a specialized law practice?

Dean: I don't know if I can make any suggestions with respect to a specialized law practice. It is my belief that a man's specialization when he gets out into the practice of the law is determined by events beyond his control. He might conceivably get into an office that does negligence work, and may become a negligence lawyer, or into an office that does domestic relations work, and he may become a matrimonial lawyer, or he might go into the district attorney's office and become a criminal lawyer. It is almost impossible, and I am basing this upon my many years of experience, for a boy in law school to say "I wish to specialize in this particular area." Fate has a habit of picking a man up and throwing him into one field of work, often a field which he never anticipated entering. Consequently, it seems to me that the proper procedure for a boy who is going to law school is to get a general legal education, so that he is in a position to take advantage of whatever opportunities may be presented to him.

Status of BLS

Justinian: Would you briefly summarize your personal feelings and emotions which you have experienced during your association with Brooklyn Law School? What are your reflections over

the years, and what are your predictions for the future?

Dean: Well, one great source of satisfaction to me has been the continued growth in quality of the Law School. If we look at this Law School from 1901, when it first began, until today, we can see a process of steady progress. Perhaps most of the progress has been made in the post-war years, when we deliberately undertook to strengthen admission requirements, courses of study, and the faculty. The results have become quite evident. We now place our graduates as law assistants in the Court of Appeals, in the Appellate Division, with federal judges, with state trial judges. Our graduates become government lawyers and are employed generally by private firms. Employment barriers which had existed many years ago no longer exist, and it has been my policy, and the policy of the faculty, not to be content with what we have done, but to keep on strengthening the Law School in every respect. This new building will help us a good deal. It will give us the opportunity for smaller classes. It will give us the opportunity for an enriched library. It will give us the opportunity to tie our alumni together with us much more strongly and, if I can project into the future, I would be inclined to say that we should have in the near future a truly outstanding law school in this country. I mentioned before that in my opinion, we rank in the top twenty-five percent of all the law schools in the country. I think that we can make that the top ten percent.

Distinguished Faculty

Justinian: Is there anything that we haven't touched upon that you would like to mention?

Dean: One thing that bothers me is the fact that our students and our graduates do not talk about the Law School the way the Law School should be talked about. The prestige of an educational institution depends upon much more than intrinsic merit. It depends upon telling people about the institution. We have today on our faculty men who have helped shape the law in many fields. We have men who have helped draft the EPTL, who helped draft the Business Corporations Law, who have worked with legislative committees—Professors Glasser and Meehan and Wrigley, as well as Professor Hoffman, formerly of our faculty, just to mention a few. We have men who routinely participate in conferences with judges. For five years, for example, I have participated in the Crotonville New York State Trial Judges Conferences, where each year I served as Chairman of the Evidence Panel; each year I have served as the instructor in Evidence in the program sponsored by the Judicial Conference for new judges; and this year, I have been as well the seminar leader for the Criminal Court Judges of the City of New York. At Crotonville too last year, Professor Thornton was present, and Professor Gershenson also was a participant. We have men on the faculty who have not only engaged in a great deal of public service work, but who have written books,

many of them authoritative books. I'd like to hear the students talk about these things. I appreciate the fact that there are criticisms. I appreciate the fact that students like to call attention to shortcomings, but I do think that the students should also begin to brag about the things we are proud of.

Justinian: Dean Prince, I'm sure that this interview will enlighten the student body as to the kind of individual that you are. You are to be respected. It has been a privilege to have had the opportunity to interview you. I thank you very much for your time, and I will personally see what I can do about giving you a free copy of the Justinian.

Dean: Thank you very much. This has not been as painful as it seemed at the first blush.



The Justinian is indebted to Mrs. Elizabeth Cogan for transcription of the tape.

Reporter Andrew Kreiger conducted the interview.

Morse on Civil Rights

(Continued from page 1)

elimination of schools for non-compliance, as Mr. Wallace charged. There is also closing of formerly segregated schools with extremely poor facilities—outhouses, kerosene lamps,—to integrate its students into the formerly segregated school."

Professor Morse pointed out some of the difficulties in the application of Title VI to state education. H.E.W. has a requirement of "desegregation" but this word literally means the elimination of legally enforced discrimination. H.E.W.'s desegregation requirement is really a requirement of integration. The first requirement of H.E.W. is that all schools follow a "freedom of choice" policy; i.e., every student, regardless of race, must be legally permitted to attend the school of his choice. If investigators from H. E. W. conclude that the adherence to the "freedom of choice" policy has not resulted in substantial integration, i.e., racial balance, then other measures must be taken by the state or funds will be cut off.

Professor Morse pointed out some of the difficulties of the program. For example, H.E.W. does not require schools which are under specific court orders to desegregate, to comply with its standards in order to receive funds under the often mistaken assumption that any court order will be at least as stringent as H.E.W.'s standards. One of the greatest difficulties, Professor Morse believes, is determining what degree of integration is required to meet H.E.W.'s standards of racial balance. A recent case, *Green v. School Board of New Kent County of Va.*, 88 S. Ct. 1689 (1968), held that a school whose student body was 15% Negro was not sufficiently integrated and H.E.W. was justified in cutting off its funds.

Busing to achieve racial balance to comply with H.E.W.'s standards is permissible yet no Federal District Court may order busing where a suit has been brought by the Attorney General pursuant to Title IV.

The lecture was followed by a question period.

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