

The Justinian

Volume 1970
Issue 1 *May*

Article 1

1970

The Justinian

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Recommended Citation

(1970) "The Justinian," *The Justinian*: Vol. 1970 : Iss. 1 , Article 1.
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THE JUSTINIAN

BROOKLYN LAW SCHOOL



Vol. XXX, No. 3 and 4 May 13, 1970
BROOKLYN, NEW YORK

Constitutional Symposium: Justice Douglas Speaks

by Peter Agovino

On April 10, 1970, a symposium was held in the Law School's Moot Court Room on the controversial book *Points of Rebellion*, by William O. Douglas, Associate Justice of the United States Supreme Court. *Point of Rebellion*, has been the subject of great concern because of the contention of some Congressmen that it advocates violence and revolution.

While serving on the Supreme Court, Justice Douglas has been its most prolific author of books, having written 30. Born 1898 in Maine, Minnesota, he received his B.A. at Whitman College in 1920. After service in the Army during W.W. I and two years of teaching at Yakima High School, Washington, he attended Columbia Law School, graduating second in his class in 1925. He practiced Law with a Wall Street firm for two years and then taught Law at Columbia and Yale Law Schools, specializing in corporate finance. In 1934 he was appointed to the Securities and Exchange Commission, becoming its Chairman in 1939. In 1939 he became President Roosevelt's fourth appointment to the Supreme Court.

Professor Morris D. Forkosh, Chairman of the Department of Public Law at the Brooklyn Law School, acted as Chairman of the symposium. The symposiasts included two prominent law professors, Professor Louis L. Jaffe of the Harvard School of Law and Professor Thomas I. Emerson of the Yale Law School; and two prominent political scientists, Professor Sidney Hook of New York University and Professor Jacob Landynski of the Graduate Faculty, New School For Social Research.

Justice Douglas attended the symposium, along with his wife, Kathy, but did not participate in the discussion. However, he did make a few brief statements about his book. He mentioned that the book is actually a preface to two more volumes which mainly deal with America's relationship with the underdeveloped nations. He stated, his major concern is that America is not a trader of ideas, that, for example, people in the underdeveloped nations are singing the words of Mao Tse Tung and not those of Thomas Jefferson. Justice Douglas analogized that if America can not solve its problems at home, in the midst of peace and

prosperity, how can we hope to help the developing nations.

First to speak at the symposium was Professor Thomas I. Emerson, Lines Professor of Law at Yale Law School. He stated that he is in basic agreement with the theme of Justice Douglas' book and the essence of the dilemma it portrays. According to him the book is a frank and courageous statement of the causes of dissent and ferment in America today. The Professor's only quarrel with the book is that it underestimates



Mr. Justice Douglas

the danger of the present situation. The book does not take into account the severity and complexity of the problems facing America today and the incapacity of the "Establishment" to cope with them. Far from a call to violence, Professor Emerson sees *Points of Rebellion* as a plea to avoid it.

Next to speak was Professor Jacob Landynski, Associate Professor of Political Science at the New School for Social Research. He began his talk by stating that he also believed the book did not advocate rebellion. However, he went on to state that as a diagnosis of the ills of our society it is neither profound nor scholarly. He sees the book as being in the tradition of the early American pamphleteers. Specifically, Professor Landynski felt that the book's complete condemnation of the present system is unwarranted. For example, he did not agree, as the book states, that the American Universities are the vested interest of the establishment, reflecting societies quest for conformity; or that there is a wave of repression in this country. As a commentary of the present American political situation, Professor Landynski found *Points of Rebellion* very inadequate.

Professor Louis Leventhal Jaffe, Byrne Professor of Administrative Law at Harvard Law School, agreed that there are serious and deep

(Continued on page 5)

Senior Student Seeks Job State Senate Seat Eyed

by Arthur Barry Levine

While June 16th as Graduation Day will mark the culmination of three years of arduous law study for the Class of '70, June 23rd as Primary Day might well mark the beginning of a career of law making for senior Donald Halperin. Mr. Halperin is running for the Democratic nomination as a candidate for State Senator in the 16th Senatorial District in Brooklyn, where the winner of the Democratic primary is assured of election in November. The district, encompassing Brighton Beach, Manhattan Beach, Sheepshead Bay, Kings Bay, Mill Basin, East Flatbush, and parts of Canarsie and Brownsville, is a diverse area with over a quarter of a million population; 70,000 are registered Democrats, less than twenty per cent will vote on Primary Day.

Mr. Halperin was graduated on the Dean's List from Rutgers University with honors in Sociology. He met his wife Brenda, while attending Rutgers. She is a graduate of Douglass College.

Mr. Halperin is one of the founders of the Brooklyn Democratic Coalition, an independent group of over 100 young men and women who care enough about today's issues to participate in purposeful activity to effect constructive change. And it is from the independence and concern of the B.D.C. that Mr. Halperin's candidacy has arisen. In its search for active local leadership with initiative, the B.D.C. decided to support their leader as the reform candidate against State Senator Rosenblatt, the incumbent for 24 years who is also a local District Leader. Halperin's main task will be attacking voter apathy; a condition not unique to the 16th Senatorial District. The "wall of apathy" which the voter surrounds himself with is due to the sense of political impotency instilled over the many years of unresponsive leadership, combined with the middle class complacency two televisions bring. The populace must come to realize that they can effect change by meaningful participation in the electoral process, a fact which Halperin hopes to awaken them to. But to do this, he must overcome the basic malady of local urban politics: the one party system. Primary Day is equivalent to Election Day in a properly gerrymandered district, and a contest between two members of the same party means less to the typical voter than a does a contest between opposing parties which the voter can identify. Getting the vote out on Primary Day is the name of the game, and Halperin hopes to do it by making the voters aware of the importance of the vote as a means of change rather than ratification.

The Halperin campaign will be up against the Regular Democratic Clubs of the district which produce the automatons who carry petitions, ring doorbells, stuff envelopes, and vote the way they are told, year after year. In return, their traffic tickets are fixed, they get jobs in the Municipal Building, and ultimately, they are appointed judges, thus completing the sym-



Donald Halperin

bolic relationship.

The general disaffection of the voters engendered by a sense of futility is a malady commonly referred to as the "silent majority" who wish to maintain the status quo. Halperin seeks the involvement of non-political persons in politics now, rather than having them merely talk about the issues. It is unfortunate that drastic and tragic events must first take place in order to awaken the public to involvement. The parents of the district will in time discover that shooting hard stuff in Junior High School is not exclusive to Bedford-Stuyvesant; and the residents of Manhattan Beach and Brighton Beach will finally become aroused when their beaches are branded health hazards and closed.

It is encouraging to find young men like Halperin who care enough to stick their necks out and fight the establishment on its own terms. His compassion, commitment and

sincerity are a rare combination which speaks well for the leaders of tomorrow if only the leaders leave us with something to lead when our time comes.

Mr. Halperin has threatened to file suit to test the constitutionality of a bill that would automatically give incumbents the top line on this year's primary ballot.

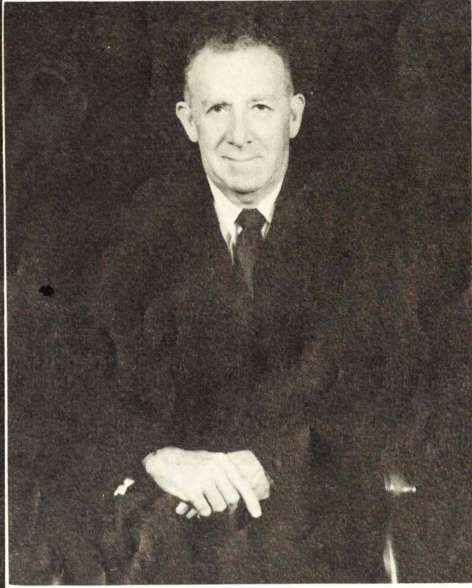
"I have urged the Governor to veto this Bill, and I sincerely hope that he does so. If the Governor imprudently signs this bill, I will file suit in federal court to contest the constitutionality of this act on the grounds that it is a flagrant violation of the equal protection and due process clauses of the Fourteenth Amendment. An injunction will also be sought to prevent the printing of primary ballots until the constitutionality of the bill is decided."

The effect of such an action would be to delay the June primary election.

On the Inside

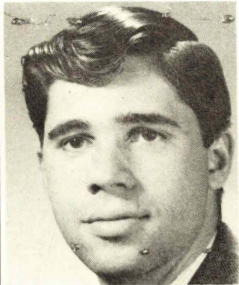
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Justice George J. Beldock 1904 - 1970



Alexander H. Mehr '70

Graduating Class Mourns Loss



Alexander Mehr

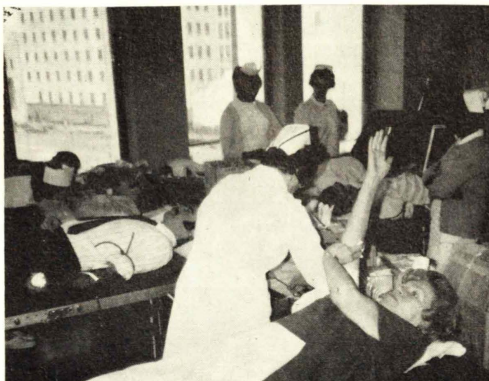
On January fifth last, the graduating class of 1970, with great sorrow received the news of the tragic death of "Sandy" Mehr.

Sandy was born July 11, 1944, and was killed in an automobile accident on December 30, 1969. He was returning home from a skiing weekend with his wife when the accident occurred.

Sandy attended the University of Bridgeport, Norwalk Community College, Hofstra University, and Quinnipiac College from which he received a Bachelor of Science in Accounting in June, 1967.

Sandy is survived by his parents, Mr. & Mrs. Herman Mehr, and his wife Paula.

In Sandy's memory, the class of 1970 has presented to the Brooklyn Law School Library the multi-volume work: *Orfield on CRIMINAL PROCEDURE UNDER THE FEDERAL RULES*.



Contributors at BLS Blood Bank, Spring, 1970.

Letters to the Editor

Dear Editor:

I, as I am sure many other of my fellow students at Brooklyn Law School, was quite anxious about the fact that the Honorable William O. Douglas was going to speak at my school. I felt myself quite fortunate to possess one of the reserved seats for the symposium. However, much to my chagrin, the entire affair turned out to be a study of boredom and irrelevancy.

The panel that was assembled, with the exception of Justice Douglas, were as removed from the subject of revolution in the United States as Alexander Portnoy is from Hadassah. The majority of them spoke in a monotone and in dull generalities.

When Justice Douglas finally was introduced, I was ready. Here was the man we all came to hear. Then he said nothing of any relevance. He neither defended his book, nor said anything about its subject, other than to promote the next two parts of his book-pamphlet. I am quite certain that the Supreme Court would have banned his appearance as obscene. His talk was utterly without social redeeming value, and his introduction of his wife could be seen as having no other motive than to appeal to the prurient interests, and that in relation to what the Honorable Justice Douglas had to say, his introduction of his wife in its prurient appeal was of preeminent interest, a beyon community standards. (It should be noted that in Justice Douglas' book, the rule of obscenity is misstated.)

There were many questions which the student body would have liked to have asked Justice Douglas, however this was not permitted. Instead, we were subject to the soporific inter-panel discussion in which Justice Douglas was omitted.

I would not consider myself an honorable critic unless I suggested a better idea for future symposiums. As such I recommend that next year we have pictures of all the Supreme Court Justices hung up on the wall of the moot court room, and have Little Orphan Annie speak on the woman's liberation movement.

David H. Meyrowitz '70

P.S.: Considering Justice Douglas' liberal attitudes towards freedom of the press, I also found it absurd that the press was barred from taking pictures at the symposium.

Professor Peter W. Thornton, formerly of this faculty and now of Notre Dame Law School, is one of the instructors in the Notre Dame Law School at the University of London. This program runs from June 29th to August 11th, 1970. The tuition fee is \$270 and lodging is supplied to single persons for \$251 and married couples for \$471. Any student who is interested in the program should write to Professor Thornton at Notre Dame Law School.

Commencement Exercises

Waldorf-Astoria

June 16, 1970

10:30 A.M.

Dear Editor,

Roger Adler has advanced several excellent criticisms against a point of view in opposition to his own. In the course of his polemic, however, I apprehend that he falls into several minor lapses. These tend, in my opinion, to weaken or confound several of his well-prepared presentations. The following are two examples of what I refer to.

Mr. Adler rightly castigates those people who would condemn the Washington marchers as "Communist sympathizers" or "fellow travellers" (implying a philosophical identification with Communist aims and methods). I believe, though, that he falls into much the same path when he labels those individuals who support the President's Viet Nam policy as "Good German" (implying the condonation of Fascist acts). A minor slip, no doubt, but one which I feel hurts much of what he says on that score.

Mr. Adler writes that the President, by his appointment of John Mitchell, has "permitted the United States of America to find itself aligned with the segregationist forces of Mississippi in arguing for a delay of integration." Surely it's possible for two men to arrive at the same conclusion although operating from different premises. The Nazi sympathizer and the conscientious objector would have very different reasons for refusing induction into the armed forces during World War II. If someone were to write (just to give an example) that, "Roger Adler finds himself aligned with the Communist Party in arguing for an end to American involvement in Viet Nam," every student in this school, to a man, would rise to protest the use of such a damaging (and blatantly untrue) insinuation. A minor slip in logic, if indeed a slip at all, tends to confound an otherwise excellent and well-reasoned argument.

The purpose of this missive is not to attack the point of view which Roger Adler puts forward. A task such as that shall have to be left to one more disposed to undertake it. I merely endeavor to present two instances in which I conceive Mr. Adler to have weakened his arguments through the way in which he chose to present them. The arguments themselves, I believe, are truly worthy of the wide exposure which they have been given.

Thank you for your kind attention in reading this letter.

Mark A. Oshman
First Year, Day

Dear Sir:

Mr. Shapps, in the December issue, asked for suggestions to aid in increasing the starting salaries of the vraduates; I have ah idea or two for him.

It is attitudes such as Mr. Shapps' which have recently caused the more thoughtful to wonder when and how we can reassess our values and solve our urgent problems while bogged down in destructive self-gratification.

There are many more important issues for us to consider in this paper than whether Mrs. Shapps shall have fur or cloth. For example, no matter what I earn, I may rapidly die of cancer if the air is not cleaned, or my son may die in a futile war is our military is not purged, or my civilization may decay if my goals are not corrected. I worry about how to attack these problems as a lawyer while maintaining financial independence, not opulence.

As students in a sick society, I suggest that we chart our courses not to salaries, but to changes.

Mr. Shapps, if what you seek is satisfaction, why not try a clearer street than Wall?

Robert C. Dorf
First Year, Day

THE JUSTINIAN

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

BROOKLYN LAW SCHOOL

250 JORALEMON STREET, BROOKLYN, NEW YORK 11201

Vol. XXX, No. 3 and 4

May 13, 1970

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Constitutional Scholar Speaks Italian Federalism Reviewed

By Joseph V. Impara, Jr.

Italian law, divorce and adultery—these were among the many issues which inspired genuine interest and inquiry among the audience at the Moot Court Room on the afternoon of February 17th. On this date, the Brooklyn Law School was privileged to hear Prof. G. Treves of the University of Turin, Italy, speak on the Italian constitution and government. Director of the Institute of Public Law at Turin, Dr. Treves is currently editing a six volume work on Comparative Public Law for the Italian National Research Council. The professor lectured with wit and clarity of expression that lent vitality and illumination to the subject matter of his speech.

Essentially, the discussion consisted of an analysis of federalism as it exists in Italy, under the principle of Federalism and an explanation of the function and structure of the Constitutional Court. In introducing them, Dr. Treves pointed out that when formulating the 1947 Constitution, that authors harbored fears that the presidential government would become a despotic executive authority and they gravitated toward the general governmental patterns established by the British, which were characterized by a truly representative parliament. At the same time, they wanted to depart from that.

This attempt to insure regional autonomy is explicit in Article V of the Italian Constitution, which provides for express delegation of legislative powers to the twenty regions which comprise the Italian state. Of these, the regions of Sardinia, Trentino and Sicily were the most important strongholds of separatism, and therefore, allowed an even greater degree of independence.

While it would appear, then, that the various localities are politically self-sufficient, in reality this is not true. The central government has not abandoned its powers, leaving little scope for regional development. Prof. Treves suggested that this lack of decentralization presents a very immediate threat to the efficiency and structure of the Italian government as a whole and that, because of this, "the system has broken down." He indicated that one of the prime reasons for this was the absolute dependency on state funds and subsidies by the regions.

Another phase of Prof. Treves' discussion concerned itself with judicial review. The function of the Italian Constitutional Court very closely approximates that of the U.S. Supreme Court in that it upholds the constitution against any legislation which is incompatible with it. It also settles regional disputes. This court could indeed provide a powerful catalyst in effecting a reversal of these trends toward regionalism except that its political orientation does not lie in this direction. The court has chosen to interpret the constitution strictly, allowing no reserve powers to the various regions, and thus permitting a great deal of breathing space to an al-

ready inflated central government. Obviously, then, what are needed are members of the judiciary who would view the constitution in a more liberal manner. This would allow for an expansion of the scope of regional powers.

The Constitutional Court is comprised of fifteen justices, five of whom are chosen by the court itself, five by the President and five by the Parliament. This would seem to be quite equitable, since all three branches of government share in the appointments equally. In fact, its members are not always forgetful of their political origins and have often shown strong conservative tendencies. There have recently been hints of new trends.

Thus, the problems facing Italian constitutional government are deep-rooted and complex. The answer is clearly provided within the framework of the constitution itself. The solution lies, however, as Prof. Treves explained, with the political administrators of today, who, through collective effort, must seek to restore the balance and harmony to a principally well-founded governmental structure.

After the lecture, Prof. Forcosek, who was host to Prof. Treves during his visit, brought up the question of divorce and adultery in Italy. Dr. Treves replied that recently the situation has changed with regard to women's status. He explained the legal basis of the divorce controversy. The Concordat with the Roman Catholic Church which was recognized by the Constitution, gives effect to Roman Catholic marriage, and some fear that divorce would counter to the Concordat. The sponsors of a bill already approved by one of the Houses, are of the opinion that the statute is sovereign in deciding which are the effects of marriage within its realm.

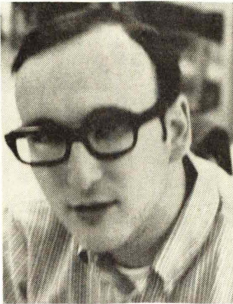
As to adultery, the Constitutional Court has overruled a previous decision and placed women on the same level as men, as family unity, which is protected by the Constitution, does not exist in this case any longer.

Following this, Dr. Treves retired to the Faculty Lounge where he entertained questions and comments by a group of interested students. He was informative, witty and receptive to student inquiry. Indeed, the Brooklyn Law School was honored to have such an interesting and distinguished guest.

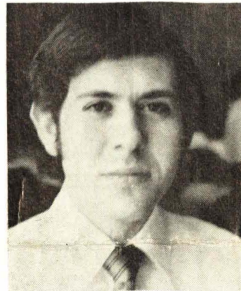
Student Pulse

by Joe Impara, Jr.

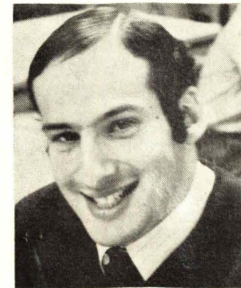
QUESTION: What do you think should be done in order to implement a more effective placement program at Brooklyn Law School?



Martin Katz '70—"I feel that there should be greater contact with the alumni so that the students here would have a better opportunity to get a job. There should be more aid in job placement of the non "Law Review" student. The "Court Street" lawyer should not be chastised and should be given greater recognition, since a great number of our alumni are within that category."



Mike Barnett '72—"There should be a full-time placement director who has had experience in the field. Also, an adequate staff to handle the necessary schedules, invitations and follow-ups."



Ken Greenhut '70—"We should invite more potential employers to conduct interviews here at the Law School so that our students can see more of them without having to miss classes while travelling. Much more interest should be shown by the placement office in getting the majority of our students, not merely those on the "Law Review," suitable interviews. We should seek to improve the image of the typical Brooklyn Law student and an effort made to correct the false image which is a carryover from years past.

(Continued on page 4)

Municipal Liability And Individual Police Protection

by Anthony Wayne DeFalso

Individual Police Protection Should Be Rendered Where There Is Substantial Evidence Of An Impending Criminal Act Of One Person Calculated To Cause Bodily Harm To The Person Seeking The Protection.

We all take for granted that embraced within the duties of the police is the prevention of crime, but is this really so? An examination of the laws which established our city discloses a provision which endows the municipality with the responsibility for the promotion of the "... safety, comfort, and convenience..." of its citizens. To fulfill this responsibility a police force was created. The question which arises here is whether the municipality, through its police force, can maintain the safety, comfort, and convenience of its citizens if the role of the police in the prevention of crimes is to be denied? In other words, should the city be allowed to turn its back on impending crimes? This, in effect, is what is being done where the courts of the state refuse to hold the municipality liable for the failure to provide police protection to its citizens who have given substantial evidence of impending crimes. The leading case which gives support to this contention is the Riss Case.² Here, Linda Riss, in fear for her life, went to those supposedly charged by law with the duty of preserving and safeguarding the lives of the citizens of this city with substantial proof that one Burt Pugach had made threats on her life and was preparing to carry them out, and she was refused protection. To me, this is a clear cut example of how the city turned its back on an impending crime with the result that Linda was assaulted and seriously injured. Linda sought compensation for the negligence of the police in failing to protect her, and the court denied this to her. In so acting, the court protected the police from an obvious failure to perform their duty, impliedly supporting the disavowal by the police of their preventive role, claiming it to lie too burdensome on the city. In the light of further legislation on this subject, which establishes the preventive role of the police,³ it is obvious that the majority opinion statement in the Riss case that the police owed no duty to Linda is without merit. What the court is attempting to say, to quote Judge Keating in dissent is, "Because we owe a duty to everybody, we owe it to nobody," and this is obviously ridiculous.

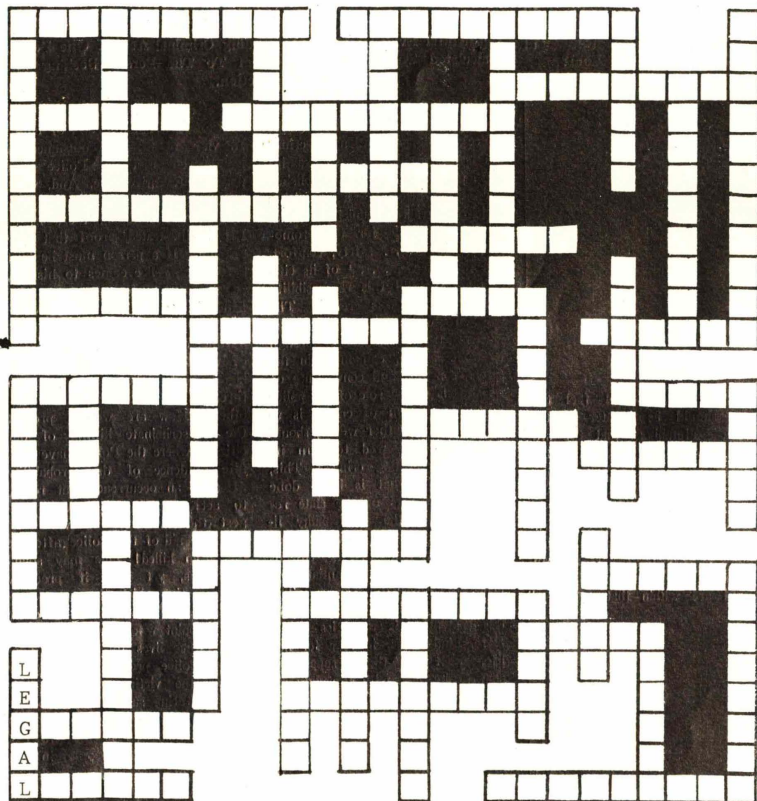
Let us now turn to the consequences of the disavowal of the Police to fulfill their preventive role. In the majority opinion in the Riss case, the court mentioned a well known fact, namely that there is a high crime rate which is continually increasing.⁴ Without going into a detailed study of our penal institutions, let it be sufficient for me to state that punishment is not an adequate deterrent to the commission of crime. The courts are full of second, third, and even more frequent offenders of the same laws. The rising crime rate also attests to the fact that punishment is not a sufficient answer. As the old

adage states: "an ounce of prevention is worth a pound of cure." In view of these circumstances it is apparent that the Police must play a preventive role. And, while most of us feel that they are serving this function, there is, as I have illustrated, proof that they are not. If a person must be hurt before the police comes to his aid, as was the unfortunate case for Linda Riss, how are we to deter the criminal element from committing crimes? A good example of the futility of such a practice is evident where one person threatens to take the life of another. How are we to prevent the indiscriminate killing of our citizens where the Police have definite evidence of the probability of such an occurrence but refuse to act? Surely one would suggest that we tell the victim to seek the aid of the Police after he has been killed! This may sound ridiculous, yet isn't it precisely this practice which the court condones in the Riss Case? Are we at the point where we are willing to sacrifice lives for lack of adequate Police protection, especially where the victim pleads in advance offering substantial proof of an impending crime where the reason for doing so is that to extend protection to people in the position of Linda Riss would be to impose too great a burden upon the city? It has been stated that the purpose of the courts is to construe the law in such a manner as to express the desire of the majority. How many people, if threatened with bodily harm, would deny that they would seek the protection of the Police, and would deem it a horror and a miscarriage of justice if anyone was to construe the law so as to deny them this needed protection (as the court in the Riss case is doing)? If we look at the effect which the decision in the Riss case will have on our lives, no one would question the proposition that such a holding is a travesty of justice, and that the City of New York, acting through its agents, completely and negligently failed to fulfill a duty which was owed to Linda, and indeed to all of us. To concur with the decision of the court would have the effect of creating an atmosphere of insecurity and fear which, upon reflection of the purpose of the municipality, will clearly be seen to be in direct conflict.

Footnotes:

1. Gen. City Law, sec. 21 (McKinney's, 1953)
2. *Riss v. City of New York*, 22 N.Y. 2d 597 (1968)
3. Gen. Municipal Law, sec. 20-9 (McKinney's 1953)
"... 2. The term 'police officer,' ... shall mean a member of a police force or other organization of a municipality who is responsible for the prevention or detection of crime..."
4. *Riss*, supra.

by M. A. Oshman

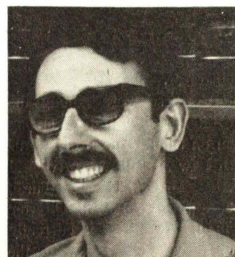


Instructions: From the numbered columns choose the word which fits; i.e., in the puzzle, the word LEGAL appears. The next would be one which begins in "L" and which has six letters. Solution appears below.

- | | | |
|----------|------------|--------------|
| 5 | 6 | 7 |
| AEDS | DEFEND | BIGAMUS |
| BERRY | EN BANC | EMPIRIC |
| BLES | EO POCO | IFUNGIA |
| CABAL | GLAIVE | NOTITIA |
| ERROR | HOLDER | OVERDUE |
| FIRMA | LEAUTE | RECEIPT |
| IN REM | LIENOR | RES IPSA |
| LEGAL | LIQUET | TERRIER |
| LICET | MARKET | TONTINE |
| PROOF | MINARE | PROCURE |
| | REALTY | |
| 8 | STATIM | 10 |
| CREDITOR | | BONO ET MALO |
| GREFFIER | 9 | CERTIORARI |
| LAENLAND | BARRISTER | DISBOCATIO |
| NECATION | CORPOREAL | OBLIGATION |
| REPLEVIN | FALSE FACT | UPPED BENCH |
| REPRIEVE | INTERESSE | 11 |
| | NON PLEVIN | BENEFICIARY |
| | PENAL BOND | CAUSA MORTIS |
| | VICONTIEL | DECLARATION |
| | WADSETTER | OBTEMPERARE |

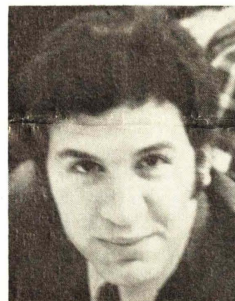
By Prof. Morris D. Forkosh

Performance Factor	Far exceeds job requirements	Exceeds job requirements	Meets job requirements	Needs some improvement	Does not meet minimum requirements
Quality	Leaps tall with a single bound	Must take a running start to leap tall buildings	Can leap over short buildings only	Crashes into buildings when attempting to jump over them	Cannot recognize at all
Timeliness	is faster than a speeding bullet	is as fast as a speeding bullet	Not quite as fast as a speeding bullet	Would you believe a slow bullet?	Wounds self when attempting to shoot with bullets
Initiative	is stronger than a locomotive	is stronger than a bull elephant	is stronger than a bull	Shoots the bull	Smells like a bull
Adaptability	walks on water consistently	Walks on water in emergencies	Washes with water	Drinks water	Passes water in emergencies
Communications	Talks with God	Talks with the angels	Talks to himself	Argues with himself	Loses those arguments



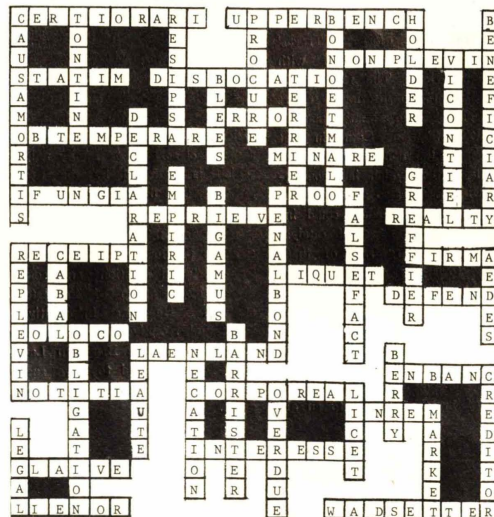
(Continued from page 3)

Charles W. Cintra '70—The problems involved in seeking employment are many. This is true whether the aspirant is an average student or a member of the Law Review. Most larger firms are primarily interested in applicants from the better known schools. The reasons for the handicap are multiphaphorous, one aspect of which is a placement office which does not operate as effectively as it could. There appears to be a general feeling that the placement office exists primarily for the benefit of the Law Review. It is interesting that a polling of the present Review editorial board reveals that all of the editors have found employment and none have found it through the efforts of the placement office. For the benefit of all students two proposals should be considered for immediate implementation: that the school hire a full-time placement director and more emphasis should be placed on locating jobs for the average student."



Lawrence Entel '70—"They should be more honest in not representing themselves in such a manner as to make a third year student think that if he is conscientious and sends out a multitude of resumes he's bound to get a job."

(Continued on page 5)



By Richard Rosenthal

"The Lawyer" is a tight knit courtroom drama that succeeds despite an overabundance of sex and violence and some pretentious dialogue.

(Directed by Sidney J. Furie
"The Impress File," "The Leather
Boys") the movie is about a hip
Harvard lawyer (Barry Newman)
who is given his big chance to
defend a wealthy doctor accused of
killing his life. The doctor is
found guilty, an appeal is granted
by the Supreme Court and finally
justice triumphs and the doctor is
absolved. (Any similarity between
this film, the Sam Sheppard murder
trial and F. Lee Bailey is
purely intentional.)

The acting is excellent throughout despite the fact that most of the cast are making their screen debut in this film. Harry Gould as the prosecutor gives a restrained and controlled performance as the old pro taking on the hip young defense attorney. All his mannerisms mesh into a unique and powerful characterization. Barry Newman, the lawyer, though often guilty of trying just a bit too hard, (like the film) settles down to a meaningful and realistic portrayal of the young lawyer out to establish justice for his client. Also worthy of note is Kathleen Crowley, who succeeds in giving a sincere and moving performance as the doctor's forlorn lover.

The direction by Furie is excellent. His expert use of diverse camera angles serves to heighten the effect of the material and his scenes and cut-outs are quite masterfully put together. Moreover, the photography by Ralph Woolsey is a perfect compliment to Furie's skilled camera eye. The brilliant shots of the blue billowy sky blending in with the Colorado Springs background are a real *tour de force*.

"The Lawyer" succeeds in presenting a realistic portrait of the problems that the trial lawyer faces. The courtroom strategy, as well as the difficulties inherent with an uncooperative client whose guilt or innocence remains in the balance, are effectively and meaningfully captured. One is also aware of the underlying conflict between the lawyer's desire to further his own career and his ultimate duty to his client.

Despite some obvious flaws, "The Lawyer" brings a lot of good qualities to the screen and the scales of justice weigh in its favor.

Legal Services Program BLS Participation Set

By Sam Grafton

Phoenixed from last term's defunct but defunct Student Lawyer's Alternative (S.L.A.), a student-run legal services program has been established under the auspices of the Office of Economic Opportunity (O.E.O.). The program provides legal assistance for poor people subsisting in the Fort Greene ghetto in the fields of divorce, welfare, immigration, family, and tenant-landlord law.

The idea for a BLS storefront neighborhood office was initially conceived by several S.L.A. members. They approached Prof. Raphael and Prof. Botein. Prof. Raphael sponsored several meetings at his nearby apartment during which various committee chairmen were chosen.

The idea of a privately funded program was discarded and the organizers approached the OEO officials at Fort Greene in December. Director John Butler, a BLS graduate, offered OEO Fulton Street facilities and clientele while at the same time recognizing the organization's independence.

A general student meeting was held and over one hundred students attended, astounding the most optimistic of organizers. In the following weeks attorneys were sought to act as supervisors to the students, money was also secured.

In early February, a steering committee was elected; each member had previously served as a committee chairman. They are: David Appelbaum, Richard Davis, David Appelbaum, Richard Davis, Bob Katz, Richard Lasky, and Peter Weiss.

The program has happened. Some sixty students meet in one afternoon a week, come with clients, and render legal assistance. Students are expected to execute their decisions and carry out all the proceedings barring courtroom appearances; only the supervisory attorneys may go before the court. The following attorneys have volunteered their time to the program and should be thanked for their kindness: Peter Feilbogen, Gary Langer, Ed Recenwald, Paul Saqqal, David Schechter, and of course, Prof. Botein and Raphael.

(Not unnoticed by program members is the abysmal lack of support from the faculty, save the two above professors. This is clearly a student project to aid the local community and faculty participation would stabilize and expand the program. The failure to help suggests a faculty insensitive, unconcerned, and something less than full-time.)

Administrative support has been enthusiastic. When questioned about the program, Asst. Dean Gilbride declared, "It's being done with our whole-hearted approval." Prof. Raphael reported that Dean Prince was anxious for the legal services project to be undertaken, believing the project to be a benefit to the students and the school. Some program members, however, remain dubious about the administrative endorsement. The skepticism is manifested in the way in which the program is funded. At present, the small sum required has been privately donated although a school grant is possible.

After a short and difficult shake down period, many student members feel the program has been a personal success. Behold:

"... I think it's how you can really... do some good... There's so much distrust. They

(the ghetto people) can't understand how you as a student... would want to help. This is the way to build up trust between human beings."

"He (the supervising attorney) said for me to decide whether to put her through bankruptcy. I should decide? I hadn't realized I was an attorney."

"I was looking in the debtor and creditor law and I found a section in the pocket supplement which actually saved my client money... I was a lawyer."

"She (a client) asked him (another student) whether it would be wise to commit to adultery... to get the divorce. He asked the (supervising) attorney if he could accommodate her, but the attorney didn't think it was ethical."

"... Lessened my frustration here... I'm aware... It's a beginning..."

If you want to get involved contact any member of the steering committee or Prof. Botein or Prof. Raphael.

Douglas

(Continued from page 1)

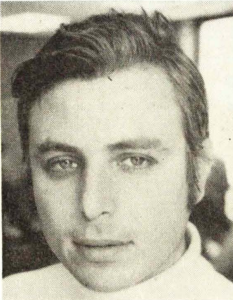
rooted problems in America today. However, he did not feel they had immediate solutions or that they would bring about revolution. Professor Jaffe saw as the key-stone of Justice Douglas' book the need for more freedom. However, as he sees it, we have more freedom than we have ever had. Conformity is being attacked on all sides and speech is more free and copious today than it ever has been; and yet the system remains unchanged. According to the Professor, the present system will remain unchanged as long as there are 100 million Americans whose main concerns are inflation and a second car. Professor Jaffe concluded by stating that unlike Justice Douglas he does not fear the threat of revolution, but rather fears the repression rebellion will bring.

The last to speak was Professor Sidney Hook, Professor Emeritus at New York University. His major criticism of the book is that it does not point the way to the solution of our problems. It does not distinguish between freedom and anarchy. Also, Professor Hook believed that the book did not give due credit to the great responsiveness of our democratic system in affording reform. He felt that our system has gotten through great perils before, and if we continue to seek democratic solutions we will be able to solve the problems that exist today. To him there is no need for violence. There should be freedom to dissent but not freedom for violence. "Points of reform should not be points of rebellion."

After the symposium the female students of the Law School held a tea for Mrs. Douglas. At this time Miss Diana C. Wolitzer, Chairlady of the Ta Committee, presented Mrs. Douglas with a locket as a token of the School's appreciation of her visit.

Student Pulse

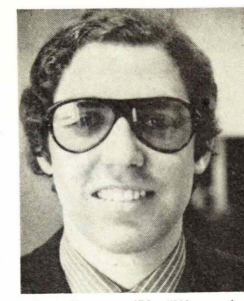
(Continued from page 4)



Steve Solomon '72—"I think the first year students are removed from this as a result of the problems of leaving college and entering law school. However, I do believe that the law student, through some inclusion in the three year program should have contact with actual cases and become conscious and appreciative of the clients and their problems. Although a clinic already exists, an effort might be made to broaden the scope of its activities in helping the layman find answers to legal problems. In this way, the student could begin to anticipate more realistically how he would begin to utilize his knowledge. In addition, many successful alumni at the New York Bar could be helpful in dispelling the fantasy associating success only with Harvard, Yale, Law Review, etc. Having done this by example, they could further achieve this purpose by helping the graduates into the field and by not continuing lip-service to debilitating ideas of Law School status."



Phyllis Mongone '71—"There are many problems peculiar to being a female member of the legal profession. The absence of women functioning in a teaching capacity at BLS is reflective of a general unwillingness to make the law profession completely open. I feel the placement office could make a substantial effort to alleviate this condition with regard to its own female students."



Joel Dranove '72—"We need a vigorous attempt to bring employers to the school for the purpose of INTERVIEWING ON CAM-PUS."

Book at the Bar

by Gary W. Baker

Whitmore

by Fred C. Shapiro
230 pp. Indianapolis:
Bobbs Merrill Co. .\$.55

Since the Supreme Court handed down the decision in *Miranda v. Arizona* in 1966, the subjects of custodial interrogation and rights of the accused have become flourishing topics of discussion and debate. It is with *Miranda* as a backdrop that *Whitmore* was written. Ostensibly, the book has been written for the general public and not the lawyer, but there is much here to interest members of the legal profession.

Mr. Shapiro, then a reporter with the now defunct New York Herald Tribune, covered the story of a 19 year-old Negro who voluntarily permitted himself to accompany the police for routine questioning and wound up "confessing" to three murders and an attempted rape. The tragic ordeal of this Black youth is unfolded by the author who culled his information from a wide variety of sources, ranging from personal interviews to the New York Law Journal.

The *Whitmore* case, which arose out of one of New York's most celebrated murders, the "Wylie-Hoffert career-girl slayings" spread over five years of judicial history and is still not complete today. The dramatic personae involved in addition to the now notorious defendant George Whitmore is an impressive and well-known cast. Included in various stages of the case are such notables as Frank Hogan, Aaron Koota, at least five Justices of the N.Y. Supreme Court, the New York Civil Liberties Union, dozens of high-ranking police officials, including former police commissioner Michael J. Murphy, Melvin Glass of the Manhattan D.A.'s office, Stanley Reiben, Myron Beldock, and even in tangential connection Governor Rockefeller and lawyers Arthur Kinoy and William Kuntzler.

The book itself is a solid, well-organized treatment of a sprawling subject. Mr. Shapiro includes nearly every detailed event that occurred from Whitmore's arrest to the appeal of the third conviction in the Borrero rape. The narrative discusses the police techniques of interrogation citing to the manual which they used as a guide. The Supreme Court in *Miranda* found these manuals very obnoxious. Care is employed by the author in discussing trial and appeal strategy on both sides, police rivalries and investigative procedures. It is clear that the author leaves no aspect unexamined in this gruesome narrative.

Whitmore presents a frank and open record of the status of police investigation and interrogation before *Miranda*. The quest for the guilty plea on conviction is revealed. The book clearly makes shockingly relevant the need for stricter control of the police power. It presents us with alarming evidence of the ability of the police to extract from those who are not adequately protected—the Blacks, the poor, the uneducated, in short, the vulnerable members of our society—totally incriminating yet false confessions or admissions. It points up the need to protect these groups.

This detailed, often very lively

book demonstrates the evils of mental persuasion as distinct from physical. It is not to be construed as totally damning of the police, however. The other side is presented, Mr. Hogan's office is shown to be highly competent and unobjectionable in its treatment of the case.

What detracts most from the book is the manner in which many of the points of law are dropped upon the reader like apothegmatic droplets. Mr. Shapiro is, after all, primarily a newspaper reporter, not an attorney, and all that could be fairly expected is for him to have presented these to us. Perhaps this view is a slightly parochial one due to my own legal training and the audience for which this is being written, yet, I desired clearer enunciation of the legal principles and maxims from the book.

Stylistically, the work is not unlike any documentary, but it succeeds where many others fail. It leaves the reader not only closer to and clearer on the subject matter, but gives him an awareness of the social processes that generate the difficulties encountered by Whitmore. It is clearly the author's intention to probe the conscience of not the civil libertarian, but those who have not recognized the validity and significance of some of the Supreme Court's recent liberal holdings in the area of state criminal procedure.

At first blush the book may appear to be a mere expansion of the sensational story that flooded the headlines of the *Daily News*, but be assured that in the final evaluation it is quite the opposite. It places in proper social setting this conflict between the extent of the police power and the rights of the people. Right up front in this conflict is the ordeal of George Whitmore, who guilty or innocent, suffered the cruelties of the custodial and judicial trials he was put through. I commend the book to the reading of both the layman and the lawyer—there are significant amounts of material present for both.

One final point ought to be made which is purely of local interest. Although throughout the book mention is made of at least two dozen lawyers, there is only one law school mentioned by name. There are three references to the school which occupies the address at 250 Joralemon Street, Brooklyn, N.Y. (BLS, for the unastute). None of these references could be characterized as favorable. Typical of these is the following quotation which appears at page 105. The author is describing the second of Whitmore's attorneys. "... Arthur Miller, a Brooklyn Law School graduate scratching out a practice in a Brownsville storefront office, who could hardly have expected to have a case of this dimension dropped in his lap." In this writer's mind, the implication is quite clear—but it may be a resurfacing of my well-nurtured paranoia or even the difficulty of finding a job of my own. But every now and then I wonder whether if Miller were a graduate of Columbia or N.Y.U., if he might not have been instead; "an attorney scratching out a practice etc. . . ." Think about it!

Answer to Puzzle From Last Issue

ALEXANDER MEHR '70



"I guess you'll always gape—
At my ties."

[illegible]

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