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FIFTEEN CENTS

Bailey Seeks to Spot Future Criminals

By Thomas Geisler

"Why a DeSalvo? What makes a man boil over into irrational violence?" asked F. Lee Bailey, counsel to Albert DeSalvo and Dr. Sam Sheppard, at a meeting of the Harvard Law School Forum Monday night at Lowell Lecture Hall. "I don't know, and nobody knows," he said, calling for a massive program of research into the "why" of the criminally insane, a program which hopefully would be of predictive aid in spotting the potentially dangerous before they bubbled over into violence.

Donald Conn, Assistant Attorney General of Massachusetts and recent adversary of Bailey in the DeSalvo trial, emphasized the need to proceed very slowly in changing the law of criminal responsibility. Excessive reliance upon the infant, inexact science of psychiatry can easily lead to the premature return of dangerous men to society.

Professor Lloyd Weinreb of the Harvard Law School suggested that treatment of the criminally insane and the very definition of that group are dependent upon the conflicting claims made upon society's resources and the measure of those resources allocated to this specific problem.

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Edward Heath:

Unify Europe

By J. D. Gernant

Eighteen months after World War II, said the Rt. Hon. Edward Heath, Winston Churchill foresaw in a speech in Zurich the advent of a new Europe, in which France and Germany would have to be the major partners. When the partnership actually did come about, Britain's empire had disintegrated and Britain sought to join the new Europe and was re-



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Kaplan Ames Club Triumphs in Finals

The Kaplan Club argued its way to the zenith of the Ames Competition last Tuesday, winning the final round against the Blackstone Team.

Mr. Justice Fortas of the United States Supreme Court, the Hon. Charles Wyzanski of the U. S. District Court of Massachusetts, and the Hon. Giles S. Rich of the U. S. Court of Customs and Patent Appeals judged the argument which was held before a capacity

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Political Confederation Hindered

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buffed.

In the 1967 Godkin lectures, "Old World and New Horizons," the leader of the Conservative Party in the United Kingdom urged closer ties among the nations of the old world. From the strength through co-operation that would result, the old world might then "redress the balance" of the power and influence achieved by the new.

Mr. Heath spoke from a background of experience

to press on for British membership than for Britain to go it alone. And he pointed to three factors impelling Europe toward unity:

(1) a determination to end the nationalist rivalry "that has ravaged Europe for so long";

(2) a recognition that for the new generation, attitudes of mind that *unite* them across national boundaries are greater than those that divide them; and

(3) a desire to benefit

Six," were Britain to join now she could affect future decisions regarding further steps toward a genuine economic union, political confederation, and a unified defense system.

Mr. Heath pointed to the nationalistic shortsightedness that impels each country, for example, to maintain its own steel industry. He suggested that differences in corporation laws and taxation policies deter formation of a more true economic *union*. And he put forward the idea of a "European corporation," with a special legal status which would not suffer, but gain and help the entire Community, by having to operate across international boundaries.

"Industrialists in 'the Six' view with misgivings any widening [across international boundaries] of their industries — and view a new member [of the Common Market] as a competitor rather than a co-operator. This attitude stunts growth, for constraints are imposed now by the shortage of capital for research and development."

gained as the chief negotiator the last time around for British entry into the European Economic Community (EEC, or Common Market).

In sketching the history of the post-war negotiations that were climaxed with the organization of the EEC, Mr. Heath pointed out that very early, even before the Coal and Steel Community was organized in 1951, Britain "could have played her full part." But the Labor Government did not participate. Since then, each new effort by Britain to take part has required of her a greater price for a smaller share in the shaping of European policy.

Nevertheless, Mr. Heath thought that more a reason

from production and marketing in a larger area.

Mr. Heath applauded the current Labor Government's efforts, saying that Britain has "a vital part to play in any political arrangements within the Community for any future European entity."

The 1950 Labor Government, he said, thought back to the Britain of the 1920's and 1930's and stood aloof, tied to the old concept of the nation-state; the 1967 Labor Government, he said, is reviving the hopes of the Conservative Party that the Conservative Government itself did not move to implement until the 1960's.

Though now the structure of the EEC is set and many important policy decisions have been made by "the

He thought that this essentially *private* process (once certain laws would be changed) would promote more "real development" than a governmental agreement, as with the British-French supersonic transport, because governmental decisions must be based more on politics than on economics.

"Political confederation" is more tricky. Mr. Heath thinks it would be "a long time" before the institutions of government as we know them — legislative, executive, and judicial — would ever be Europeanized. But he believes that a political union of sorts will be achieved gradually when the member states and their representatives come to realize that more and more of their "economic" decisions

By Nationalistic Shortsightedness

touch on matters of the nations' domestic and foreign policy.

At that time, he feels, there may be some movement to formalize the developing political discussions into some form of confederation.

Regarding the military might of Europe, Mr. Heath named Britain, France, and Germany as the "three main military powers." Britain, he reminded his audience, though her defenses are now closely tied to America's, is a nuclear power in her own right.

As for France, he warned of the "trap" of thinking that because President de Gaulle right now is so clearly in charge, the substance of French policy would change when he no longer guides his nation. In fact, said Mr. Heath, the basic policy for developing the "force de frappe" was set in the Fourth Republic and commands the support of the parties and the people.

Germany, he thought, with a new group of national leaders and a whole generation grown up without a memory of Germany's role in World War II, does not

accept the idea that its national policy must continue to be circumscribed because of the sins of the Third Reich.

Mr. Heath gave as an example of Germany's growing independence that, while she signed willingly (unlike de Gaulle's France) the Test Ban Treaty of 1963, negotiated, he said, between America and the Soviet Union, she refused, in 1966, to sign the non-proliferation pact negotiated in the same way.

"Can these countries' different attitudes be brought together in a joint European policy?" Mr. Heath wondered.

He pointed to the practical considerations of cost as one

"I would like to see the inventiveness of the old world stretching out to new horizons to push out further the frontiers of knowledge."

factor impelling a joint effort. Assuming that neither Britain nor France would give up its nuclear armaments, each may find the cost of its own independent system rising beyond the resources of one country.

Another factor: Because of Soviet fear of an independent Germany rearmed (and Soviet power to do something about it), the moving force in Western Europe, he thought, will likely be toward making Germany a full partner in European defense, an equal with Brit-

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The Right Honorable Edward Heath

Mitrany: International Administrative Bodies Needed to Replace Treaties and Sovereignty

By Edward Vogt

"I am suggesting that nations today are driven to create a state on *nonsovereignty* in new dimensions," said David Mitrany to the International Law Club, Wednesday, March 23.

He was referring to the increasing use of international administrative bodies to solve international problems when formal treaties are inadvisable.

Mitrany said that pressure for this new "functional" approach has increased with the steady expansion of the political, social and scientific revolutions. He pointed in particular to the great increase in the number of independent states which though weak economically, will not compromise their newly-won sovereignty by formal treaties.

Greater Conflict Predicted

At the same time, Mitrany observed, the world is witnessing the rise of the "planned welfare state" in which "politics loses to the administrative machine, as in totalitarianism, and state authority expands without constitutional checks."

"Given these new states and their internal conditions, what will be the international effects?" he asked. His answer predicted "greater points of contact and conflict between states trying to expand and consolidate their political sovereignty" — even at the expense of limiting their economic development.

Such states, Mitrany feared, will continue to see even their most "practical" problems of food, medicine and education through "political" glasses, thereby precluding a fruitful international agreement.

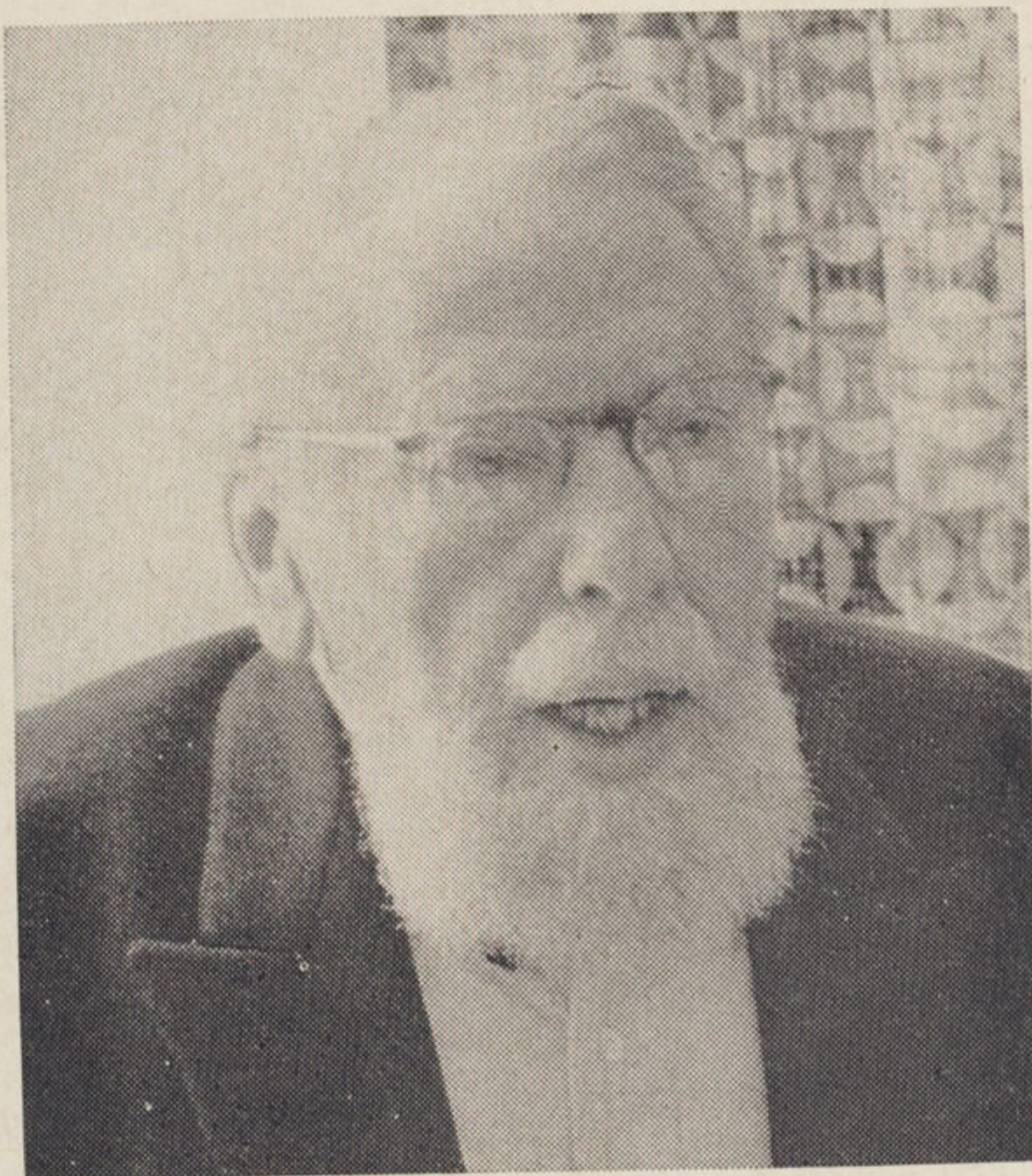
Antarctic Example

"A new approach is needed," he said. The idea of sovereignty cannot easily be applied to many international problems today. It has in the past been identified first with land, then with the sea and air, he noted. But the advent of space travel and satellites has created "a no man's land of sovereignty

that breaks up the traditional concept of territorial sovereignty."

The outline of a solution, Mitrany observed, might be found in the results of an agreement like the Antarctica treaty. There, twelve interested nations agreed to make no territorial claims, to set up no military bases, and to exchange data.

The result was a neutral zone where the



David Mitrany

scientists could pursue their "practical" investigations relatively free from "political" turmoil.

Even better examples of functional administrative bodies are such agencies as UNESCO, the World Health Organization, and the International Monetary Fund. On a regional scale, Mitrany pointed to the Coal Board, established and given semi-autonomy by Western European nations.

"We need more of these functional bodies flexible enough to grow and perhaps take many issues from the political arena," Mitrany urged.

He predicted that as these administrative bodies grew in size and number they would be faced with the problem of coordination.

Powell Case Created a 'Mess in Congress'

"The chance of Adam Clayton Powell proving that his exclusion from Congress was for racial reasons is almost non-existent," Professor Andrew L. Kaufman told the Young Democrats last week.

Speaking to a group of 60 on "The Powell Case," Professor Kaufman gave a detailed analysis of possible allegations and defenses which could be used if the case should be brought before the Supreme Court.

Constitutional Arguments

Since it hints of a political question, the professor queried whether the Court would pass on the matter at all. The first issue, he said, is "whether this is one of the few remaining political questions beyond the Supreme Court's jurisdiction".

There is no Constitutional case-law background for the issue, and if it is heard, it will be the first case to test the power of Congress to exclude one of its members, he said.

Anticipating probable arguments for both sides, if the case should be considered by the Court, Prof. Kaufman suggested that Mr. Powell will "doubtless cite the Julian Bond case" and argue that the Article I, sec. 2 qualifications for Representatives (age, citizenship, residence) are exclusive and that Congress cannot add to them.

Powell's Case Stronger

The opposing argument will be based on Art. I, sec. 5, which allows Congress to set qualifications for its members.

Policy reasons for holding the Article I qualifications exclusive are "considerably stronger for Mr. Powell," observed Professor Kaufman. "Setting qualifications in an objective manner not subject to the passions of a particular moment is an ideal worth achieving."

Criticizing the manner in which the exclusion vote was carried out by the House, Prof. Kaufman noted that one fourth of the members were absent, some members thought that they were voting to exclude Mr. Powell on constitutional grounds, and, further, the reasons for his being censored were not

stated in the preamble to the motion for his exclusion.

"The voting created a mess in Congress", he concluded. "It is fair to say that if the House is to be the judge of the qualifications of its members (Article I, sec. 5) in a judicial manner, these proceedings were far from judicial. The rush of the debate, the rush to resolution that seemed to set leadership aside, also swept reason aside."

As for remedies available to Powell if he should win, Prof. Kaufman indicated that "there is no question that mandamus would certainly lie against the Doorkeeper, Sergeant At Arms and Clerk of the House. It is more of a question whether it will lie against



Prof. Andrew Kaufman

the Speaker, since there is some doubt whether the Speaker or any other Representative can be ordered to do anything."

Another consideration is what would happen if the Supreme Court ordered Congress to take Mr. Powell back and it refused. "That's a problem," said Kaufman. He noted

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Education Costs Continue Rising

Harvard is not the only place to have raised the cost of obtaining a legal education.

During the past ten years, the average annual tuition has risen almost 110 per cent, from \$485 to \$1,013. The figures were compiled by the American Law Student Association.

The study revealed that only one law school charged a tuition of \$1,000 in 1956, while today 69 of the 135 law schools ask \$1,000 or more.

While law school tuition spirals upward, the ratio of teachers to students is falling off. The median ratio in 1966 was 1 teacher for every 18 law students, while only five years ago, the survey showed 1 for every 14 law students. Both full-time and part-time faculty members were used in computing these ratios.

The decline in the ratio was due to the fact that the number of law students has increased by 51 per cent over 1961, while the teacher population rose by only 27 per cent.

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Fortas Judges Ames Finals . . .

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crowd of students, faculty and guests in the Ames Courtroom.

The facts concerned an allegedly fraudulent drug patent, with subsequent proceedings before the Federal Trade Commission on the question of unfair methods of competition.

The well-researched issues in-

sales will close Apr. 8, and no tickets will be sold at the door. cluded a question of possible prejudice on the part of one of the Federal Trade Commissioners, and the jurisdiction of the Commission over the validity of Patent Office methods. The authority of the Commission to require royalty-free licensing of a patent was also debated.

The Blackstone Club was led by oralists Jack Fallin and Alton Harris, and research and brief writing efforts were contributed by George Deptula, Timothy Egan, John Haner, Kenneth Johanson, Jeffrey Pass, and Irwin Shechtman.

Robert Currie and Charles Updike argued the law and policy for the Kaplan Club, and Daniel Bond, Christopher Buckley, David Griff, Ronald Lachner, Michael Moore, and John Tuohy concentrated on the library research, brief writing, and late-night drilling of the oralists.

Events of Note

"Springtime Splendor" will be the theme of this year's Harvard Law Wives Fashion Show, Saturday, Apr. 15, 1 p.m., at the Hotel Continental. Luncheon will be served followed by the show itself, at which members of the Law Wives act as models. About 30 door prizes will be distributed. Tickets, priced at \$3, may be purchased from Mrs. Carl Krasik, 491-7706, any evening after 5 p.m. Ticket

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Just What Makes the Criminally Insane Tick?

(Continued from Page 1)

Bailey urged that the law distinguish between the coldly rational criminals and those who commit violence upon society through irrational bursts of energy. Understanding of the latter group is necessary so that society may search out and treat them before nightmares are realized.

As counsel, Bailey claims the privilege (strangely novel in these latter days of criminal law) of asking his client whether he



F. Lee Bailey

committed the act. More than that, he may even ask, "Why?" But too often his clients, like DeSalvo, can only reply, "I don't know." Nor have his observations of clients revealed to Bailey precisely what it takes for a man to commit murder or rape.

It is high time, Bailey contends, that research be done to reach some understanding of such men. The analysis must be cold and

objective; there is neither need nor possibility of empathy with brutal murderers and rapists. But in order to treat the potentially dangerous we must first find them. And we can't find them until we first study those men who have already crossed the line into violence and who are in our hands.

Such research would require use of diverse techniques, from hypnosis to computers, but would be well worth the effort if a "common denominator" were found. A detailed study at the time of the act would perhaps give a clue to the "trigger" which can set off a DeSalvo.

Dark and Murky World

Until such time as research yields a satisfactory answer, we must feel our way in a dark and murky world. Bailey wholly rejects the M'Naughten test since it posits a world artificially divided into right and wrong. And he has never been able to discern in an "irresistible impulse" more than an impulse which wasn't resisted. The Model Penal Code test does represent an improvement, though it is neither the answer nor even close to one.

Assistant Attorney General Conn saw his duty as protecting citizens of this Commonwealth from the risk that someone who has already committed dangerous acts will again strike at society. The prosecutor's duty is a terrible responsibility and must be discharged without coddling or prejudice; a mistake can result in the horrible murder of a totally innocent citizen.

Unreliable, Unworkable

Psychiatric advice at present all too often sends a man back into society prematurely and is thus an uncertain guide to lawyers. Conn warned against change for change's sake and pointed to the *Durham* rule as a supposed answer which in fact proved unreliable and unworkable.

Professor Weinreb stated that the boundaries of the criminally insane depend upon two variables: what conduct is criminal, and

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Blessed Are the Meek?

Last week's Conference on Law and Poverty was a great eye-opener for many of the people who attended it. Composed of members of the bar, students, representatives of the poor and government officials, the panels illustrated that the only constant in poverty law today is a state of flux.

Some of the solutions proposed and discussed were radical or at least novel — suggestions of a neighborhood court system or a system whereby current law school graduates would spend a year or two working in the poverty field, much as they now enter government service or a judicial clerkship.

Many of the ideas are already being put into practice, even in the heart of Cambridge. The Community Legal Assistance Office, for example, is studying the possibility of starting consumer buying cooperatives, neighborhood credit unions, even seminars on the law. This activity points up another feature of modern poverty law — it uses law as a stepping stone to other solutions, some political, some economic, some educational.

The conference also made clear that the day of the "bleeding heart liberal" is past. Today's breed of poverty lawyer is, for the most part, a hard-nosed realist striving to help the poor attain the dignity that has long been denied them, without forcing them into a middle-class mold.

No longer do the poor ask humbly for some crumbs from the tables of the prosperous. Today's poor are being organized and taught that they too have rights and that they too can demand their due from society.

This new-found spirit that is now being manifested by the poor may seem obnoxious to much of society, but it is a sign of a healthy community when free men stand erect and demand their rights.

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TONGUE 'N CHEEK

By Fenno

A beep of the horn, the "Service Entrance" door rumbled upwards, and I coaxed my sick VW into the gloomy interior which would have discouraged even Dante. "Sounds like a busted valve tappet," I remarked to Charlie the mechanic when he finally brought it upon himself to wander over to where I was.

"Dented fenders, leaking convertible tops, windows that won't roll down, rusty radiators — that's all you people ever bring me," he exhumed. "It's so depressing to work with broken down things all day long."

"Cheer up, Charlie! I'll be glad to trade places with you."

"You'd never do that. You lawyers have it made. What I wouldn't give for a leather-lined office and a big chair to lean back in!"

"Just surface, old boy. We lawyers have to work with broken down things all day long, too."

"Really?"

"Sure. We're always representing sick corporations exhausting themselves in a series of debilitating proxy fights or so far gone that they're ready to throw in the sponge for a receivership; newspapers printing lurid, untrue stories in a desperate attempt to stay above water."

"But it must be satisfying to solve these problems through laws which spring from justice, the blind-folded woman holding scales."

"Alas, there are seldom any laws in point or these people would solve their problems themselves after a few minutes in a library. And as for justice, it's no more than some rules made of bubble gum and bobby pins designed to keep things under control a little longer, a commodity sold in more or less adulterated form by lawyers and judges."

"But why do you want to be a mechanic?"

"I'd rather dirty my hands than my mind."

Letters to the Editor of the RECORD

One Prof. Views Poverty Conference

To the Editor:

Perhaps it is wrong to clutter your columns with the obvious, but this is one time when the obvious should not be left unsaid.

Since the great majority of the RECORD's subscribers will have no source of news about the Conference on Law and Poverty save the RECORD's own pages, might it possibly have been decenter of your reporter to have just given the news, please, and left the interpretation for another time? I give vent to this ill humor in full awareness of how obnoxious it will seem coming from a sponsor of the Conference; and conscious, too, of the nagging (though to me remote) possibility that Mr. Gernant was only trying to be funny, or splashy, or deep, and so must be excused from journalistic nicety, not to mention plain civility.

This is not, I must add, a merely theoretical point. As you by now

doubtless understand, there are popular views of the weekend's events rather different from what Mr. Gernant's artwork exudes, and the RECORD certainly owes its far-flung readership a straighter story.

I truly regret my inability to give seemly expression to my feelings about Mr. Gernant's reporting.

Frank I. Michelman

Professor of Law

'Almost Universally Enthusiastic Reaction'

To the Editor:

The poor judgment and bad taste displayed by J. David Gernant in his article on the Harvard Conference on Law and Poverty were so apparent that further comment seems almost superfluous. Surely a law school function which brought together an outstanding group of speakers and a distinguished audience to discuss problems of great importance to our profession and society as a whole was entitled to more than the snide

and shallow attacks levelled by Mr. Gernant.

Those who attended the Conference will pay little heed to Mr. Gernant's characterization of Edgar Cahn as "affectedly supercilious," of Clinton Bamberger as "smug," or of the speakers in general as "obnoxious." But to set the record straight for those who did not attend, I think it is fair to say that by every criterion the Conference was a success. The general sessions were interesting and fruitful, the reports from seminars were generally favorable, and the opportunities for "shop talk" between sessions were undoubtedly useful for students and professionals alike. The reaction to the Conference was almost universally enthusiastic, and the demand for transcripts has been heavy.

Above and beyond the general tone of his article, Mr. Gernant committed numerous errors of fact, of which I shall mention only the most important:

1. In one place Mr. Gernant says the audience consisted of 450 lawyers and in another he says they were all "professional poverty people." In fact, nearly half the audience consisted of students. The remainder included a large proportion of law professors, private attorneys, and others interested in legal services, as well as, to be sure, a good sampling of "professionals."

2. Mr. Gernant gives the impression that all the speakers at the Conference were radicals who "challenge[d] the conservative powers-that-be with views intentionally obnoxious to those powers." He doesn't even mention that the program included such members of the "Establishment" as Junius Allison, Executive Director of the National Legal Aid and Defender Association; F. Herbert Prem, Chairman of the Committee on Legal Assistance of the New York City Bar Association; Edward Carr, head of the New York

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Photo Gallery



Photo by Jack Tate

**"Wee, sleekit, cowrin', timrous beastie,
Oh, what a panic's in thy breastie . . ."**

Letters to the Editor of the RECORD

(Continued from Page 9)

Legal Aid Society; and Earl Johnson, Director of the OEO Legal Services Program.

3. Mr. Gernant says the Conference was sponsored by the Neighborhood Law Office Program. In fact, it was sponsored by the Law School, and managed by a committee of students. The student committee received invaluable assistance from John Ferren, director of the Neighborhood Law Office, and from Betty Allebach, secretary of the Harvard Legal Aid Bureau. Neither of these organizations, however, were formally affiliated with the Conference.

Daniel H. Lowenstein, 3L
Chairman

Harvard Conference on
Law and Poverty

Conference Tone Was 'Self-Criticism'

To the Editor:

Last week's article on the Conference on Law and Poverty was indeed unfortunate. As the RECORD photographer covering the conference, I feel it incumbent upon me to publicly disagree with both the tone and substance of that article.

I feel the article is unfortunate first simply as a newspaper article. Even a by-line should not license opinion so unbridled it swallows the news. The RECORD may feel a necessity to be original or splashy; but as the only news medium covering many law school events, I think it owes its readers, particularly those outside the law school community, at least an attempt at journalistic objectivity.

Secondly, the article was unfortunate because it was factually incorrect and analytically imperceptive. Though Mr. Stringfellow's viewpoint may have been, to coin a phrase, obnoxious, it was apparent that his audience was completely unsympathetic. Dr. Cahn's "affected superciliousness" impressed many as the concern of one deeply committed to a difficult problem. And E. Clinton Bamberger's "smugness" seemed rather

a glimpse of hope beyond a dark cloud of self doubt.

Though there may have been an annoying camaraderie among the conference's participants, and though speakers may have occasionally spoken self-righteously, the whole tone of the conference was one of self-criticism. Its purpose was to allow those involved in a relatively new area of the law to compare notes, to find out how it is going, and to figure out what to do next. If one thing struck this observer, it was the extraordinary disparity of opinion concerning every aspect of poverty law, even its importance.

If by obnoxious, Mr. Gernant meant, as has been suggested, that the Conference was purposely and justifiably offensive to the established social order, I would suggest he did not say so very skillfully. If, on the other hand, he meant, as it would seem, that all are obnoxious who espouse change in the social and judicial system in order that the ideal of equal justice might be more fully realized, I would say he is hoist with his own petard.

R. John Cooper, 2L

Mr. Gernant writes:

"From these letters and from comments made to me, I gather that the article has been widely misunderstood. And the role of the reporter is also misunderstood — either by my critics or by me. I will be 'obnoxious' myself, and say that the readers surely did not

read the article with the care and attention the reporter assumes his select audience to possess.

"I personally believe, with Mr. Lowenstein, that the conference was indeed 'a success.' But, that a mere reporter is berated for not trumpeting his personal views of the ideas that he is sent only to report, I find ironic and astonishing.

"So, what purpose did I have for injecting my views at the points that I did? The job of the journalist in a news-feature story, as I see it, is not only to write blandly about what was said, but also to give the reader a taste of the tone of the conference, to try to make the reader feel he is there (or at least to feel what the reporter felt). This is accomplished, not by coloring the views presented (which I was careful not to do), but by trying briefly to describe the atmosphere; and the 'atmosphere' is conveyed by describing the tone of voice, the cock of the eyebrow, the attitude — of the speakers.

"Why, then, the 'obnoxiousness,' as I saw it? The word is used in at least two different ways at different points in the article. And, lest that be misunderstood, the ambiguity is deliberate. Never at any point did I say that the views of any speaker were 'obnoxious' to me, or to any compassionate segment of society. What I did say was that the views presented were 'intentionally ob-

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The Arrogance of Budgetary Power

Jeffrey L. Pressman, *House vs. Senate: Conflict in the Appropriations Process* Yale University Press, 1966. \$4.50.

By Jon M. Van Dyke

Anyone who has seen the telephone-book-sized document which is sent to Congress each January is inclined to wonder whether the two houses and their committees can play a meaningful role in reviewing the budget.

The amount of detail is simply staggering. And the task of balancing the nation's priorities — which requires several months of the executive branch's time each fall — would require much more time if it were to be duplicated by the considerably smaller staffs of the Congressional committees.

For the most part this is recognized by the Congress, and the basic assumptions made by the Administration tend to be accepted.

Of course Congressmen add money for their pet defense projects and cut ap-

propriations for foreign aid and the poverty program, but they rarely attempt to look upon the budget as a total document.

Yet because of the continual conflicts between the House and the Senate in deciding how much should be appropriated and what procedures should be used to further the appropriation process, it still takes forever for the budget to be approved.

Ruminations

In 1949, 1961, 1962, and 1963, the ruminations, deliberations, and squabbles of the two houses of Congress were such that the fiscal year began before many of the executive agencies were told how much they could spend. Indeed in 1962, more time seemed to be spent deciding where the House and Senate conferees should meet than in deciding how much to appropriate.

Thus on the one hand, Congress does not have the facilities to contribute greatly to the budget-making process and on the other

hand its tools for dealing with the issues are so antiquated as to be often self-defeating.

Mr. Pressman's book begins by analyzing the 1962 feud, concluding that it was not just a personal power struggle between the two eighty-year old committee chairmen, Senator Carl Hayden and Congressman Clarence Cannon, but was rather a struggle for prestige and the trappings of power between the two houses of Congress.

The author then examines and analyzes the process whereby the committees and subcommittees of the two houses brood over the budget by holding hearings, investigating the needs of the agencies, adding here, subtracting there, voting, and finally compromising with each other.

Autonomous Bodies

The importance and autonomy of the subcommittees are particularly stressed. The decisions made in these smaller groups (which often are simply the decisions of the subcommittee chairmen) are almost always adopted by the full committee.

Mr. Pressman uses Charles E. Lindblom's notions of incremental decision-making to explain what happens at each step along the way. He uses Thomas

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(Continued on Page 13)

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Forum . . .

(Continued from Page 7)

what conduct constitutes insanity. The concept of insanity is functional, not descriptive; to say a man is insane is to say, by and large, that he should be put in an institution.

However, whether a man should be com-



Prof. Lloyd Weinreb

mitted to an institution depends upon the facilities and conditions of the institution. Thus, in a world where many good causes compete for money, the limited funds available for this one good cause will largely determine how broad is the category of the criminally insane. The better the treatment, the broader is the category. On the other hand, the higher the need for treatment in the individual case, the lower is the level of acceptable treatment.

Powell Case . . .

(Continued from Page 5)

that once, when Georgia hanged a man over the Supreme Court's order to free him, President Jackson said, "Marshall made the decision, now let him enforce it."

Kaufman doubts that President Johnson would send in troops to enforce the Court's order.

A suggested solution is to take away the jurisdiction of the Supreme Court to pass on the case by legislation. But, he said, there are many legal scholars, including Professor Hart, who "have considerable doubts about the power of Congress to regulate the jurisdiction of the Supreme Court."

Review . . .

(Continued from Page 11)

C. Schelling's thoughts on strategic postures to analyze the bargaining which takes place at the conferences. And he draws upon interviews with members of the House and Senate Appropriations Committee and their staffs to illustrate how the two sides look at each other.

After this process is thus articulately described, Mr. Pressman concludes that its comic-opera aspects should be ended. He proposes a Joint Conference Staff which would be able to provide more specialized knowledge to the two houses, and which, because it would serve both Appropriations Committees, would tend to lessen the conflict between

the House and the Senate.

At present the two staffs are quite gung-ho in perpetuating their own domaine and own way of approaching the problem. If the staffs could be integrated together, then each house might tend to respect the other's decisions a bit more.

Streamline Process

Before presenting this proposal, the author rejects several ideas that had been previously put forth to streamline the process, including a Joint Budgetary Policy Committee and the Joint Appropriations Committee which has been suggested by Senator McClellan.

If all the subcommittees are not represented in these joint committees, then the subcommittee heads are un-

likely to feel bound by the decision made in this joint group. If all the subcommittees are represented the joint committee may be too large to be workable, and in addition the joint committee would necessarily sacrifice the depth of inquiry for the breadth of an overall perspective.

Unconvincing

A few judgments made along the way are somewhat unconvincing. For example, when discussing whether the whole of Congress would accept without question the decisions made by a joint congressional committee, Mr. Pressman says that party loyalty could be strengthened to achieve this goal. Such a conclusion seems to overlook the fact that many Congressional positions of power are still held by those who show no interest at all in party loyalty.

Other conclusions Mr. Pressman reaches would be presented more forcefully if he had been able to identify the authors of the statements obtained while interviewing Congressmen involved in the appropriation process.

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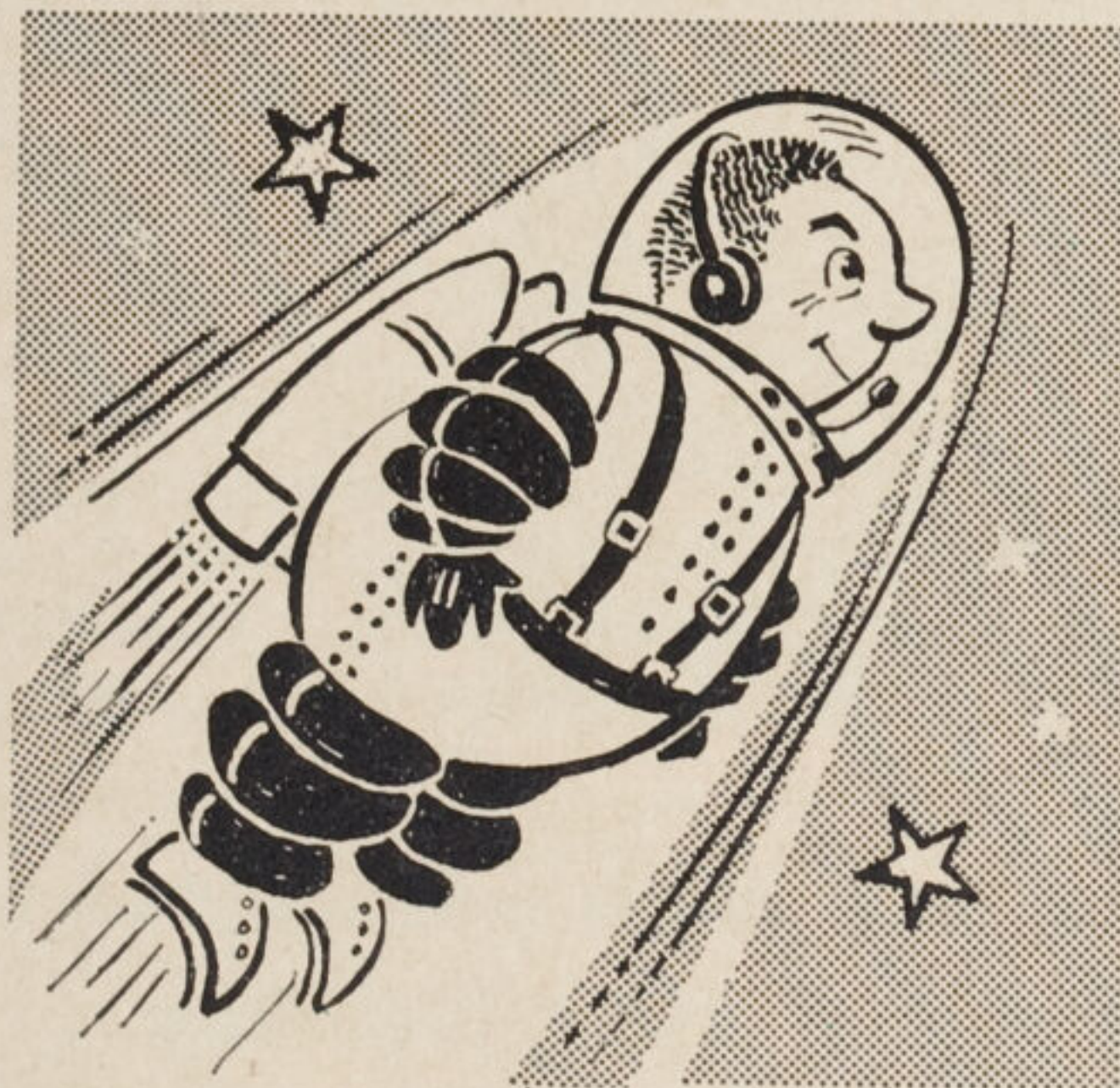
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Letters

(Continued from Page 10)

noxious to [the] powers[-that-be]" in society (third full paragraph on page 6). That is Meaning #1 of "obnoxious."

"Meaning #2 of "obnoxious" is explained in the paragraphs dealing with the speakers' demeanor, as I saw it, and again has nothing to do with the worth of their ideas. That is, I believe readers should be told if speakers appear to be "supercilious" or "contemptuous" or "smug" or "aggressively cynical."

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"And "obnoxious" in the very first paragraph of the article is thus seen — I had hoped it would be so understood more readily than it apparently was — as a deliberate ambiguity expressing a blend of all the meanings used in the article. It was perhaps too subtle. But I had thought that readers supposedly skilled in linguistic interpretation would have no trouble with subtleties.

"At least this much may be said of the article. It was interesting enough for people to read all the way through it. And it was controversial enough for people to discuss it. Unfortunately, the immediate effect is that they are discussing the merits of the article rather than the merits of the speakers' ideas. One would hope that perhaps, on reflection, the first may give way to the second, and that dissemination of the ideas themselves may become more widespread as a result of the way in which the article was written.

Solution to Bias: Win Men's Minds

To the Editor:

It is not possible to classify the law firms in New York City in definite categories. We observe however that in Firm A, Irish law clerks are promoted from clerkship to partnership; in Firm B, the partners are Jewish; Firm C has Irish, Italian and Jewish partners; Firm D has some Jewish partners, who attract substantial business and are among the ablest men at our Bar in their particular field; and Firm E does not have any Jewish partners. These varying situations reflect the policy of the respective firms.

As I understand it, a faculty committee has been appointed to deal with the problem of discrimination in the employment of graduates of the Law School. Obviously Firm E will be denied interview privileges. So must Firm A, because it discriminates against all clerks who are not Irish, and Firm B, because it dis-

(Continued on Page 16)

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Letters

(Continued from Page 15)

criminate against all clerks who are not Jewish.

What happens to the firm whose members are all Protestants, but decide that they need a Jewish lawyer who can attract substantial business? Their representative makes it clear by conduct or words that he wishes to interview and employ a Jewish student. He is discriminating against the non-Jewish element in the student body.

What happens to the student who seeks information from the Law School in regard to a prospective employer? Are the lips of the faculty or of the placement office sealed by the Massachusetts

statute to which the RECORD refers?

How can the faculty determine the firms which will be denied interview privileges without compiling a list of firms which the faculty believes are discriminators?

Would a system of denial of interview privileges tend to limit the avenues of employment available to non-Jewish students in the Law School?

I do not pretend to know the answers to these or other problems presented by discrimination in its varying forms. I do believe that their eventual solution will be found in victory over the minds of men, rather than in the application of sanctions.

Peyton Randolph Harris '15
New York, N.Y.

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Godkin . . .

(Continued from Page 3)

ain and France. That is, he said, the nuclear power now based in Britain and France should be "held in trusteeship for Europe as a whole."

This was Mr. Heath's vision for the future of Europe. It is perhaps as great a change from today's Europe as today's Europe is from the Europe Winston Churchill described twenty years ago as a "rubble heap, a breeding ground of pestilence and hate."

The "rubble heap" is gone; in another twenty years, gone also may be the ancient nation-states that still survive today.

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