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CAVEAT

VOLUME III NO. 3 GOLDEN GATE COLLEGE SCHOOL OF LAW November 1967

LETTER TO THE EDITOR

Admittedly it is not commonplace to have a Letter to the Editor on the front page; however, inasmuch as there has been a plethora of discontent over an article in last month's CAVEAT, it seems only equitable that the reply to that article should recieve similar treatment, lest there be cries of unfairness, prejudice or favoritism. Should this reply prove to be inadequate to vindicate your ravished psyche, there is another Letter to the Editor from the Dean which is far superior in its retributive aspects.

Dear Editor:

We are taking this opportunity to respond to the article critical of our organization which appeared in the Caveat. We are motivated not by a desire to vindicate the political or moral posture of the National Lawyers Guild, but to correct gross distortions of fact and to argue substantively against the shoddy reasoning (not to say red-baiting) of the writer.

The charge that the faculty was behind the formation of the student chapter of the Guild is completely unfounded. Last year a few students considered the possibility of forming a chapter, and this semester, on our own initiative, the first organizing meeting was held. We received assistance from the Guild organizer at Boalt Hall where there are approximately 70 student members. Our interest, and that of some faculty members, does not demonstrate any change in administrative policy so far as we know. Perhaps the writer of the Caveat article has superior sources of information. We would welcome support from the faculty; but to say they have participated, whether through "ignorance, tolerance or a rapport with the philosophy of the Student Chapter of the National Lawyers Guild," is factually incompetent.

The writer asks what effect the political or social biases of Guild members will have on the image of the school. The question, it seems to us, is irrelevant. A pluralistic society with genuine democratic commitments does not ordinarily question the right to advocacy. When it does, it is not because its reputation is at stake but because of "national peril" or some other shibboleth employed to curtail First Amendment rights. Assuming that the existence of the Law School is secure and that students are not manning the barricades, we are certain that the school will not allow the fear of guilt by association to dominate their policy on academic freedom.

We do not dismiss criticism as "latent McCarthyism" any more than fear of the late senator inspired use of the word "Guild" in the title of the organization. Nor, the writer of the Caveat article will note, have we called him a "warmongering bigot who hates the poor." The writer concludes from the sheer weight of citations by Congressional committees that it is "unlikely that such a long and illustrious record is attributable to groundless accusations or to any one man." His reasoning resembles nothing so much as that of the committees in which he places his faith, and reveals about as much respect for procedural due process. It is immaterial to us whether the Guild was in fact a "front." But apparently the U.S. Attorney General could not reach the conclusion that the Guild was a front with quite the elasticity of logic which our learned writer has at his command.

In 1958, after five fruitless years of litigation, the government gave up its attempt to have the Guild placed on the list of subversive organizations, "the evidence... available for a hearing on the merits failed to meet the strict standards of proof which guide proceedings of this character." 1959 Att'y Gen. Ann. Rep. 259.

After genuflecting to the professionally comforting but scandalously ignored dogma that unpopular clients deserve adequate defense counsel, the writer vitiates his concession by implying that anyone who defends the unpopular cause exposes himself to charges of disloyalty... "the line between legal defense and allegiance becomes blurred." Does the line only remain clear so long as General Motors is the client and become conveniently (for those who would deny the dissenter legal protection) vague when Harry Bridges is the client?

Contrary to the Caveat writer's assertion that we are asking him to believe that the Guild has been "cleansed," we assure him that we don't care what he believes. The Guild has not been "selected" as anyone's "standard bearer" in the area of community service. (Who did the "selecting" is left to the reader's imagination.) There are at least two other groups on this campus engaged in legal aid efforts. As individuals, we ask only that accusations which seriously compromise the positions of faculty members be based on an investigation of the facts conducted with the appropriate measure of diligence. As an organization, we reaffirm our right to have judgement suspended until our conduct merits substantive criticism rather than innuendo, hearsay, and unsubstantiated allegations which characterized the Caveat article.

D. F. Zuckerman
Gerald Gerash
Victor Schaub

RECENT CASES OF INTEREST

On September 29, 1967, the California Court of Appeals for the first district, Justice Devine presiding, held that the husband of a woman who, with his consent, was artificially inseminated was found not guilty of the crime of failing to support a child who was the product of such insemination. California Penal Code section 270 is applicable in this matter and states that a father of either a legitimate or illegitimate child who willfully omits to furnish the necessary clothing, food or shelter for his child is guilty of a misdemeanor. Defendant Sorenson was convicted of failure to support under Section 270.

Seven years after Sorenson's marriage, it was medically determined that he was sterile. His wife desired a child either by adoption or artificial insemination. After another seven years had elapsed the defendant finally agreed to his wife's proposal of artificial insemination. Mr. and Mrs. Sorenson consulted a San Francisco physician and signed an agreement requesting the doctor to inseminate the wife with the sperm of a white male. Shortly thereafter Mrs. Sorenson became pregnant. On the birth certificate Mr. Sorenson was named as the father. Sorenson also represented to friends that he was the father of the child and generally held the boy out as being his own. Four years after the child's birth Mrs. Sorenson left her husband and he later filed for and was granted a divorce. Mrs. Sorenson kept the child but told the defendant that she wanted no support from him. After she became ill and unable to work the District Attorney brought charges against the defendant under section 270.

The court stresses that this case is one of prosecution for a crime under Penal Code 270 and not a civil action for support. Therefore defendant cannot be found guilty unless he has violated that statute. The court reasoned that because section 270 places criminal responsibility only upon the FATHER of a child, whether the child be legitimate or illegitimate, the prosecution has the absolute burden of proving that the person charged is the father.

The opinion of the judge in the trial court was based on the theory of estoppel with the court holding that defendant was estopped from denying that he was the father of the child due to evidence presented dur the trial that Sorenson had represented that the child was his own .

On appeal the instant court reversed holding that estoppel is related almost exclusively to the civil law, with limited exceptions in the criminal area of embezzlement. The prosecution cited several civil cases involving artificial insemination but these were all distinguished and the court concluded that a clear distinction must be made between a criminal presumption, in which the burden of proving every element of the offense rests upon the prosecution, and civil cases, in which principles of equitable considerations may be applied. The court prefers not to speculate on the subject of possible liability in any civil case which may later present itself. In holding as they did the justices unanimously agreed that the prosecution may not rely upon estoppel in order to prove an essential element of the crime of which the appellant is charged.

MOOT COURT

Under the aegis of the second year day students, a moot court board has been formed to administer a competitive moot court program to first year students. Second year students will act as senior partner/advisors to the teams of first year students working on their briefs and oral arguments. Andy Pearl, second year class representative is serving as chairman of the program, assisted by Pat Heron, case coordinator, Joseph Gruber, administrator, and Marshall Rubin as clerk. Professor Hoskins will serve as faculty advisor to the program. The Barristers' Club of San Francisco have agreed to help by providing problems and sitting as judges. The board expects to have the program in full operation by March.

SEVENTH STEP

Many prominent Americans within the legal profession feel that revenge should not be a legitimate aim of our society; it helps neither the society nor the aggrieved. Spite and discontent should be eradicated in our already tense country. Thus, it may be argued that a penal system should be one for rehabilitation and not punishment, but if deterrence is the wish of society at present, should it not be achieved by proper training instead of incarceration alone?

Many panaceas have been brought to the forefront as solutions to the problems of criminality. Incarceration, extermination and torture have all been proposed and used in different areas of the world but we are still beset with a growing crime rate. Perhaps the simple explanation would lie in the many and varied causes of criminality. But understanding that there are many causes for crime does not make crime disappear.

The Seventh Step Foundation, with national headquarters in San Francisco, is one excellent example of what can be done to rehabilitate the convicted felon. The main purpose of the organization is to aid former convicts in readjusting to society so they may play a productive role in the community.

Over eighty percent of the parolees who have participated in Seventh Step programs have remained out of prison, whereas just the reverse is true for parolees who have not attended the Foundation's classes. There are approximately three hundred thousand men in prison in the United States; of this number, two hundred and eighty-five thousand will eventually return to society. Two hundred and fifteen thousand of these men will commit new crimes and be returned to prison.

These statistics, combined with the facts that show it costs taxpayers two thousand dollars per year to keep the average man in prison as well as approximately eight thousand dollars to apprehend every criminal, make clear the need for Seventh Step.

According to its officers, Seventh Step kept at least three hundred parolees outside the prison walls which resulted in a savings of over one-half million dollars per year to the taxpayers. Admittedly, this is only the beginning, but it is an impressive beginning.

The Seventh Step was founded four years ago by Bill Sands, an ex-convict, who many years earlier had served time in San Quentin for Armed

Robbery. Sands started the organization by going into the Kansas State Prison and telling the hard-core convicts there that he could understand their problems and help them out, as he had lived their life as a convict many years before in San Quentin. From the first class in Kansas State Prison, Seventh Step has grown to a national organization with its main center in San Francisco.

The program that has started out so well can best be described as a kind of psychotherapy, in which the men help each other talk out their resentments and frustrations. These programs are not run by professional psychiatrists, social workers, or prison officials. Former convicts are in charge of all activities and this according to Sands is the reason for the great success that has been demonstrated. Professionals often have difficulty communicating with men who have been fighting established norms for many years. Many "cons" know that the professionals, or "Square Johns" mean well, but it is difficult for them to believe it after prison. Former convicts, on the other hand, are able to reach the men that cannot be approached by conventional means.

The Foundation offers as a part of its overall program Pre-Release classes where convicts meet with Foundation personnel and concerned "Square Johns" who are able to give the inmates valuable advice on matters of general concern to all persons outside of prison such as Social Security and employment opportunities. Businessmen and any interested persons are encouraged to attend these pre-release meetings held every week at San Quentin and help these convicts plan their future and perhaps act as sponsors in helping them find employment on the outside.

Along with pre-release classes, Seventh Step gives parolees an opportunity to participate in post-release classes and activities at various clubhouses. While most states have laws which prohibit the fraternization of men on parole, an exception is usually made for the Foundation as its programs are now recognized by penal authorities to have great value. Hence, the men can relax in the clubroom, seek the advice of staff members in solving personal problems, and make appointments for job interviews through the Foundation. Perhaps, the major benefit for these men is the opportunity they have to exchange information on how to solve problems common to all, and to hear from other ex-cons and "Square Johns" what they need to do in order to lead a productive and normal life in society.

Seventh Step is making great progress in its goals, but it is not a panacea and should not be regarded as one. It is another path that promises hope that help and understanding can play a greater role than so-called methods of deterrence and punishment presently employed by our criminal law.

Walter Gorelick

LETTER TO THE EDITOR

Dear Sir:

I find the October issue of the CAVEAT most disturbing.

First, there is the sloppy writing in the article on the State Bar Convention with three misspelled words and two phrases in quotes, the reason for which escapes me.

Second is the article entitled "Gadfly". The CAVEAT is a student paper; there is no reason for an abundance, or any material "eminating from the faculty". If the student writings cannot justify its publication, discontinue it.

Third, and far more fundamental, is the completely distorted article on the formation of a student chapter of the National Lawyers Guild. The errors therein are numerous.

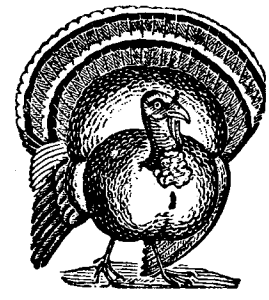
1. No faculty approval or disapproval, encouragement or discouragement is involved and there has been no change of any faculty policy. The Student Bar Association has existed and continues to exist as an adjunct of the American Bar Association. If students wish to organize a legal fraternity, a Lawyers Club, a student A.B.A. or a student Lawyers Guild Chapter, that is their business. The faculty's sole policy regarding such organizations is that there be no discrimination of membership on the basis of race, creed, color or national origin. I hate to think of the outcry from the students if the faculty should undertake to determine what organizations students could or could not belong to, or if we allowed only A.B.A. sponsored organizations to meet.

2. I find the insinuation that "the recent change in faculty policy reflects ignorance, tolerance or a rapport" offensive. I am certain no member of the faculty is ignorant of the objectives or the history of the Guild. I have no idea whether any, most, or all are "in rapport". I do know that all faculty members subscribe to the principle that law students, like American citizens, must be free to join, or refrain from joining, organizations without regard to the political, social or economic views of members of the faculty.

3. You say this is the "only student organization of its type". I did not know the Student Bar Association had been abolished.

Finally, I would have thought it healthy for the CAVEAT to discuss the question of whether there should be a student chapter of any kind, provided the discussion was on the basis of fact and reason rather than fiction and emotion.

Yours very truly,
John A. Gorfinkel
Dean, School of Law.



CAVEAT

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STAFF

EDITOR: William J. Fahres
BUSINESS MANAGER: Alan Lacy
REPORTERS: S. Kendall, W. Gorelick
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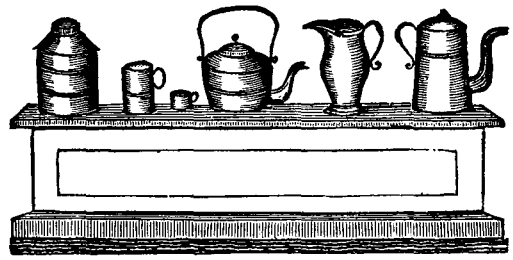
The annual scholarship award of $100 which is solely derived from coffee sales and other activities of the Law Wives Club was given to Mr. Robert R. Hole who is a second year night student. Mr. Hole received the funds at the Fall Dinner Dance. This annual award is given to a student who has completed at least one year and is based exclusively on scholastic achievement and merit; need is not a factor.

Congratulations to Mr. Hole and to the Law Wives Club for its continued efforts to aid members of the student body. It is greatly appreciated by all of us. Keep buying those cookies at night, fellows.



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