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## The Adversary (Vol. 3, No. 5, October 21, 1970)

Southern Methodist University School of Law

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# THE ADVERSARY

SOUTHERN METHODIST UNIVERSITY SCHOOL OF LAW

Vol. 3, No. 5

DALLAS, TEXAS

October 21, 1970



## Bentsen Hits Issues

Democratic senatorial candidate Lloyd Bentsen delineated the issues for SMU law students on Thursday, Oct. 8 in Lawyer's Inn.

John Stone reports, page 4.

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## Dean Cites Minority Recruitment Figures

I have been pleased by the interest expressed concerning recruitment of minority students. Certainly, any student who was here last year knows of my own personal involvement with minority group problems through my chairmanship of the Dallas County War on Poverty Program. I have said publicly that one of the most effective attacks that can be made on poverty is to improve the educational level of disadvantaged people. A literate, well-educated society is not going to have a poverty problem.

So far as recruitment is concerned, I have emphasized with both the local Black and Chicano leaders that law and medicine need more representation in their respective communities. The opportunities are legion in both professions if only there were more applicants for the jobs.

The plain truth is, however, that we are dealing with a problem of numbers. In all of Dallas County, which is 25% Negro and 5% Mexican-American, the number of young men and women from these minorities in any form of university graduate study is considerably less than a hundred, and the number of that group studying for law and medicine anywhere in the country is quite literally only a handful.

The University of Texas Law School at Austin is the largest full time day division law school in the United States (Harvard, N.Y.U., and Georgetown have more enrolled in graduate study or in evening division study); it is tax supported with a minimum tuition; and its dean, faculty, and students feel strongly about the need to recruit minority students for the Law School. Yet this year at Texas, out of 1,578 students, there are only 20 Blacks and 75 to 80 Chicanos.

(Cont'd page 5)

## National Moot Court

Ken Morris and Mike Poynor will represent SMU in the regional rounds of the National Moot Court Competition on November 12-14 at Texas Tech. First and second place teams will compete in the National Finals in New York City in December.

This year's topic involves the constitutionality of a newsman's privilege not to have to reveal the source of his information when such is given under confidence.

## SBA Referendum Results Announced

1. Should we have preregistration to determine prospective class enrollments?  
187 -- YES      NO -- 14
2. Should we institute pass fail elective courses?  
156 -- YES      NO -- 52
3. Should course scheduling be designed to accommodate working students?  
176 -- YES      NO -- 31
4. Should more academic units be extended to laboratory courses such as legal aid and internship programs?  
158 -- YES      NO -- 38
5. Should grades be posted by student I.D. number as soon as each professor completes the grading for each course?  
204 -- YES      NO -- 10

## Editorially —

### Agnew Guilty of

### Malice Aforethought

"The Center Magazine" reprint in this issue illustrates the frightening potential of corruption of language. Words are the most prolific tools of communication; however, words coupled with the human element account for inevitable lack of communication and creation of "monstrous realities."

Spiro Agnew and the press no less than any extremist group ardently and willfully employ the tactics of rhetoric and semantics to capture and retain spotlight treatment in furthering their ends.

It is pitifully paradoxical when a presumably responsible, intelligent individual, especially the Vice President of the United States, takes upon himself the task of righteously assailing and castigating anything and everything at any time.

Tagging Senator Goodell (R-N.Y.) the "Christine Jorgensen of the Republican Party" is a clever word manipulation, but hardly intelligent or funny is the following wind-slapping condemnation of the Scranton report: (Oct. 6 Christian Science Monitor Feature)

"The American people have been led by this truncated and distorted report to believe that the primary need for restoration of order on the American campus is for the President of the U.S. to exercise greater moral leadership. This is an unfair, outrageous, and unacceptable charge to make against the President...."

Only one with little understanding of the office of the Presidency could make such an inane statement.

--fbv

## Galvin Rebutts Abortion Stance

To the Editor:

The subject of abortion is a most timely and appropriate one for law students to discuss. The problem now has moved into the realm of primary legal concern, for throughout the United States there is, as we all know, a rash of new legislative measures, some proposed, some in committee, some before the legislative bodies, and some before the governors of the respective states.

The long tradition of Anglo-Saxon jurisprudence has consistently offered protection to the child en ventre sa mere with respect to his contract and property rights, rights of inheritance, right to sue for torts, etc. The question is, I suppose, whether or not the being in the mother's womb is a "human" being. Does it become a person, or human being, only after the umbilical cord is cut? Does it have personhood the day before birth? The week before? The month before? When does "humanness" begin?

The biologists say that all life is in constant continuum, passing from the living to the living. Embryologists and geneticists teach us that at the instant of conception the entire congeries of human charac-

(Cont'd page 6)

## Corruption of Language

(Editor's note: Reprinted from the July 1970 issue of "The Center Magazine," a publication of the Center for the Study of Democratic Institutions in Santa Barbara, California.)

Words have a way of creating their own reality. As George Orwell and others have pointed out, corruption of language can lead to the corruption of political life. During recent years, this truth has been spectacularly obvious. Words are being fired like ammunition in the wars that polarize us.

The calculated use of obscenities on the part of campus dissidents stirs up outrage and self-righteousness in the users and blind rage in those on the receiving end. Words, mere words, then, create the atmosphere in which violence becomes not only possible but almost inevitable. At the other end of the political spectrum, apologists for the carnage in Indo-China use soft, patriotic words to camouflage what America is doing there, putting minds at ease and stirring up love of country to overwhelm the claims of conscience.

Abroad, the people of Vietnam are reduced to "gooks," the easier to kill them. At home, the police are reduced to "pigs," the easier to defy them. In both cases men are

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# THE ADVERSARY

SOUTHERN METHODIST UNIVERSITY SCHOOL OF LAW

Editor-in-Chief . . . . . F. Burns Vick  
Associate Editor . . . . . Jim Lemmon  
Staff Members: Al Ellis, Doc Hale, Jim Hockert, Evelyn  
Hudson, Harry Najim, John Pitts, Bill  
Ruhe, John Stone

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## So. African Affairs Debated

(Ed. note: The following two letters are responses generated by an Oct. 2 lecture by the Deputy Asst. Secy. of State for African Affairs, Mr. Robert Smith, who spoke on economic strategy in southern Africa.)

#1.

After surveying the erosion of America's diplomatic position in the Middle East, Asia, and Latin America, some poor soul began to spread the rumor that, using the law of averages, our position in Africa couldn't be too bad. Consternation! When the State Department got word of this insidious rumor, it quickly sent Dr. Robert L. Smith to SMU Law School to clarify the Department's position. The implication in Dr. Smith's lecture to the International Law class was that, rumors notwithstanding, our foreign policy is as counter-productive and inimical to American interests in Africa as it is anywhere in the world.

Consider:

1. Various black African countries are training, arming, and directing terrorists who regularly attempt to commit atrocities in Rhodesia, South Africa, etc. These are the very countries that complain that Rhodesia and South Africa are threats to world peace. Actually, this situation would inject much-needed humor into foreign relations, were it not for the fact that the U.S. supports these loony contentions.

2. The U.S. is putting pressure on the few naturally pro-Western countries in Africa at the behest of some of the most virulent anti-Western countries in the world. Thus, in one brilliant stroke of diplomacy we are managing to lose allies while gaining absolutely nothing!

3. The State Department is basing our foreign policy in Africa on the moribund U.N., which is as efficacious, in the light of contemporary power politics, as basing

(See Afro Affairs, #1, p.6)

#2.

I would like to contribute some background information concerning Mr. Anderson's letter and to differ with his interpretation of the existing foreign policy in Africa.

1. In 1965, Rhodesia presented the U.N. with a Unilateral Declaration of Independence. While the U.S., in conjunction with the U.N. did not immediately denounce the new "government," it did immediately look into its nature and its objectives. The findings were that the objectives were not only ugly but also, in the opinion of the U.S., violative of an international moral obligation of the government to do the most good for the most people. Leaving four million black Africans without benefit under the new government, Rhodesia's regime was aimed at enriching a minority white population. Mr. Anderson's "terrorists" supported by the U.S. are members of the four million unrepresented black Africans who are trying to find some means of representation. The atrocities which they are committing in Rhodesia and South West Africa (surely Mr. Anderson was referring to South West Africa since it is the country which is being boycotted by the U.S.) are not immediately apparent; perhaps the readers can offer some assistance. The only atrocities known to me are related to the apartheid principles (extreme segregation) practiced by the white minority governments in the two countries named above.

2. The U.S. is putting pressure only on the countries which it feels are violating the principles of morality.

(See Afro Affairs, #2, p.6)

## LAW REFORM

by Doc Hale

The necessity of immediate reform of the legal system is almost universally recognized, but achievement of effective change is doubtful in the near future. Newspaper and magazine articles have recently explored the problem of overcrowded courts, and several books have analyzed the situation in depth.

However, the immensity of the problem makes it almost singularly unmanageable. Increasing volume forced into a legal system already overburdened render stop-gap measures and solutions dealing with only some aspects of the problem inconsequential. Yet comprehensive change conflicts with so many interests that legislators are unable to come to grips with the problem.

The crisis facing the legal system did not spring up full blown, but the expanding accessibility of the courts in the 1960's through initiation of legal aid programs and the like have hastened the time of reckoning. Furthermore, the courts must deal with petty offenses such as drunkenness and traffic violations that flood the docket and tax the system. Administrative bureaucracy and inefficiency also slow the wheels of justice. Although a great number of remedies have been suggested and a few even implemented on a small scale, no solution is visible.

Ironically, lawyers may be unsuited to cope with the dilemma. Trained to look to precedent and to think in certain thought patterns, the lawyer may not possess the creativity to deal effectively with this problem. This crisis directly affects all citizens and will have to be solved through the collective efforts of people in other fields as well as law.

(With this issue begins a series of articles on law and law school reform.)

# "Vicious Lie" Charges Bentsen

From the SBA Desk ...

by John Stone

ABDICATING RESPONSIBILITY

"It's a vicious, vicious lie," responded Texas Senate candidate Lloyd Bentsen to a Playboy magazine allegation that he is a "hip-shooting millionaire who dislikes Blacks, Mexican-Americans and students."

The super-slick baron of a huge Texas banking and insurance empire brought his Democratic quest for the U.S. Senate to SMU Law School Thursday in a short question-answer session with approximately 70 students, faculty members, and administrators.

Turning to how campus militants should be handled, Bentsen, softening his East Texas hard-line approach for his student audience, offered, "I believe in the right of dissent without question. But violence makes a mockery of dissent. Students who are militant should be expelled."

He called for combating the drug problem by a frontal assault: entering civil actions against hard-core addicts to place them under the mandatory care of the U.S. Public Health Service; bringing criminal prosecution against pushers; and giving judges greater leeway in assessing penalties. "Determining which are addicts and which are pushers would be a question of fact, wouldn't it?" he added.

Although admitting that he had been "too busy doing other things" to read the President's "Campus Violence Report," Bentsen told his listeners, "I don't believe we should blame campus violence completely on Nixon."

Sidestepping a student's reference to his earlier castigation of Spiro Agnew's upcoming Texas appearances in behalf of his opponent, George Bush, Bentsen parlied, "I won't bring anybody from out of state into Texas to campaign for me."

Without specifying a particular need, the South Texas native outlined a judicial reform constitutional amendment that would provide for a senatorial review of all federal judges after 10 years in office. "To keep it from becoming political, it would take a two-thirds majority to remove any judge then. Everyone should be answerable, even judges. To insure speedier due process, we need 100 new federal judges and 100 new U.S. attorneys, at least on a temporary basis."

Explaining that he hadn't referred to all liberal Democrats when he called members of the Democratic Rebuilding Committee "a little pack of jackals," Bentsen declared, "These people are paid professionals aided by the Republican party. I have a great many friends who are liberals, among them Mike Mansfield."

He blamed Nixon for contributing to a recession by not using voluntary wage and price guidelines. "President Johnson used them. Nixon hasn't, and money has gotten tighter, faster," he continued.

He asserted that his stance in favor of federal anti-pollution measures on a regional basis provided liberals a basis for supporting him over his opponent. "On that issue we significantly differ. He believes each state should pass its own anti-pollution laws, but pollution doesn't stop at a state boundary."

He stated that he had been active in civil rights legislation by his being one of only two Texas congressmen who voted to repeal poll taxes in 1949.

"I don't have to make any deals to get committee appointments," he stressed, answering a suggestion that

(Cont'd page 6)

Last May I gave the Honor Court the task of preparing some badly needed reforms in our current honor system. Today, nearly 5 months later, the basic questions of how evidence shall be gathered, what specific punishments can be expected, should judges be elected, should there be faculty representation on the court, what is the proper format for appeal; all of these issues remain magnificently unresolved.

The basic idea of an Honor Court is to have the students police themselves (just like the legal profession). This is supposed to teach self-government and responsibility. The alternative is to abolish the honor system, abdicate all student responsibility, and let the faculty spank, paddle, and expel those who cheat.

The choice we face now is either to revert to the third grade level of letting "grown ups" take care of us, or to face up to the burdens of professional self-discipline and responsibility.

I am posting a sign-up sheet on the SBA Bulletin Board for those interested in being on a drafting committee to prepare a new Honor Code which is fair and workable. If no one shows an interest in this, then maybe we should abolish the honor system and allow either the faculty to paddle us or a judicial panel of nineteen year old undergraduates to judge our pseudo-professional conduct. Either one of these alternatives would probably be the greatest deterrent to misconduct yet imagined.

Mike Poynor

|          |  |
|----------|--|
| 10/21-23 | SMU-PLI Tax Law Inst.  |
| 11/2-4   | Athletic Cards due for block seating at A&M game   |
| 11/2-6   | Make reserv. for PAD buses to A&M game. (\$1.75 per person--FREE BEER!) Contact G. Huselton at 528-1055. |

DEAN COMMENTS, from page 1

The Association of American Law Schools reported last May the following statistical data from 136 reporting schools as to students in residence:

|                                       | 1967-68 | 1969-70       |
|---------------------------------------|---------|---------------|
| Black American                        | 1,254   | 2,154         |
| American Indian                       | 32      | 71            |
| Chicano                               | 180     | 414           |
| Other Hispano-American                | 81      | 75            |
| Puerto Rican (outside of Puerto Rico) | 69      | 61            |
| Other minority or disadvantaged       | --      | 263           |
| Total registration                    | 67,977  | 71,000 (est.) |

Considering that schools like Texas Southern in Houston and Howard University in Washington make a special appeal to Negroes, the number left for other schools is relatively few. Moreover, given the opportunity, a Negro will probably choose a Northeastern or Midwestern school because he believes, rightly or wrongly, that he will enjoy a better life style as a student and as an alumnus of such a school. Scholarships and fellowships for minority representatives quite literally go begging in Southern and Southwestern schools for lack of applicants.

The program of the Council of Legal Educational Opportunity (CLEO) offers minority students a summer course of intensive training before the first year in law school. Yet even with massive resources granted to this effort, the upswing in input is not as dramatic as the planners of the program hoped for.

All of this is not to say that we, or Texas, or Alabama, or Vanderbilt, or Tulane, or anyone else should be faint-hearted. Indeed, all the more reason to be as aggressive as possible in our recruitment effort.

Students can be of great assistance in corresponding with representatives of minority groups in the various colleges from which they come, urging upon them to apply. A personal call or letter is a most effective recruitment technique. Further, if there are specific people whom you know to whom we can send materials, please advise us.

Charles O. Galvin

LANGUAGE CORRUPTION, from page 2

reduced to less than men for political purposes. Who, then, can take either side seriously when they talk solemnly about the dignity of man?

If man is inviolable, it is blasphemy to talk of Vietnamese, North or South, as gooks; it is sacrilegious to speak of policemen as pigs. It is an outrage to refer to black men as niggers. The outrage is approved when white men in turn are spoken of as honkies.

Either one believes in the dignity of man or one doesn't. The disdain found in the words of contempt that are used so freely deny the central idea behind that proposition. Those who indulge in the general downgrading reduce not only their enemies but themselves.

But, alas, dehumanizing by language is now found on all sides. The President himself has played the game, referring to dissident students as "bums." The Vice-President has learned to make headlines by choosing his words with malice aforethought. Mr. Agnew has made a practice of arousing  
(See next column)

LANGUAGE CORRUPTION, cont'd

audiences by encouraging, even inciting, them to express disdain for their fellow man. For all his piety, he denies human dignity in every other sentence --as do so many youthful rebels when they spit out their contempt for fellow human beings, as well as racists of every hue, and political partisans, left or right, who confront opponents not with arguments but personal epithets.

Seen one way, words of course are merely syllables uttered to convey meaning. But that is only part of the story. The skillful selection of words, we all know, can turn evil into good or good into evil in the minds of those who hear them.

When words are used to serve emotion rather than reason, they can change a normally attractive coed into a screaming harridan, a normally reasonable man into an inciter of violence, a normally peaceful community into a ranting mob crying for blood. This is happening.

We can deceive even ourselves by accepting words that make evil look good, the ugly appear beautiful, or the sick look healthy. This marks the greatest victory of propagandists, and it has frequently left wreckage in its path.

Modern history has made it clear that whole nations can lie to themselves this way. They have been known to turn in fury against the lonely individuals who hold out for the integrity of language.

The corruption of language, especially when it is rationalized by more corrupt language, can lead to incalculable harm. It is often responsible not only for the destruction of reason and responsibility but for the actual killing of innocent men and women. The abuse of language is at the roots of almost every case of mob violence. And still it goes on,  
(Cont'd page 6)

teristics are fixed--color of eyes, hair, size of frame, congenital weaknesses, and the like. Of course, during the period of gestation the child can be damaged by external forces--rubella, drugs, physical injury to the mother, malnutrition, etc.

The point is, however, that the whole complex of genetics is set at conception, and if so, when does this thing become a person? 23 weeks later? 28 weeks?

How is abortion legislation to be effectively administered? Can a committee of physicians determine that life can be terminated? Why not a committee of lawyers who know more about civil rights and liberties? Why not a committee of philosophers? Why not let a committee of physicians terminate life when a person has become incompetent? Or too old? Or too feeble to be useful? If the purpose of legislation is to assure well formed, well loved, biological specimens for the human community, we could wait until all children were born, examine them, and then kill the ones that are unwanted, imperfect, nonlovable, unsupportable, etc.

If the mother and the physician consent to destroy the "thing" or "being" at 28 weeks, or 30 weeks, does the being have sufficient "human" characteristics to be entitled to have counsel to appeal the decision?

It seems to me that the legal, moral, and social implications of the new abortion legislation are too cavalierly treated. There is no probing analysis and no thoughtful, critical discussion. The "in" thing is to be for pro liberalization, but have we as lawyers really thought through the consequences?

A lively debate among students on this issue could be productive of some precise and definitive thinking on everyone's part.

AFRO AFFAIRS #1 from p. 3

our foreign policy in Austria and Hungary on Otto von Hapsburg.

4. HERE'S THE GRIPPER: In order to effectuate our stand against "evil in our time," the U.S. must forego trading with Rhodesia. This country formerly supplied us with a large percentage of our chromite requirements. Moralists will perhaps be confused by the fact that since the Rhodesia embargo the U.S. has been forced to acquire this necessary chromite from that traditional "protector" of minority rights, the Soviet Union.

Obviously, in the U.S. State Department, Owen Lattimore, Noel Field, and Alger Hiss may be gone, but oh, how the memory lingers on.

Stuart I. Anderson

AFRO AFFAIRS #2 from p. 3

These countries are not necessarily friendly to the U.S.

(See next column)

AFRO AFFAIRS #2, cont'd

Moreover, the allies which the U.S. is "losing" must be ghost allies who are also renouncing the U.N.

3. It is a shame that such a caustic attitude must be demonstrated in regard to the U.N. While it is rarely denied that there are shortcomings to the U.N., it is the only true international or transnational peace organization in existence today. Its growing pains must be endured in the hope that it will become more effective in the future. If the U.N. never asserts its authority over new "governments," respect will be long in coming.

4. The chromite supply is indeed limited by the embargo of the Rhodesian trade. It cannot be denied that Russia has supplied some of the replacement, but would Mr. Anderson prefer that the U.S. cut off trade with the Soviet Union, deny them our wheat trade, and burn the grain in

(See next column)

the streets of the U.S.? It is hard to eliminate an international balance of trade which has existed for decades. Blame this on the "military/industrial complex" not on foreign relations.

"Obviously," the talk of a representative of the State Department cannot be appreciated without a basic understanding of the facts surrounding the situation in Africa.

Jim Hockert

"VICIOUS LIE," from page 4

once he was elected his views would change.

"I stuck by the issues in that campaign," he shot back to a student's suggestion that he used ethically-questionable tactics to unseat Senator Ralph Yarborough in the Democratic primary.

LANGUAGE CORRUPTION, from page 5

with even the most ardent advocates of peace playing thoughtlessly with the loaded weapon of words.

It is not enough to respond that even exaggerated language can serve the truth and when it does that is enough justification for its use. There is also such a thing as a mode of truth. The one who uses words to sentimentalize the truth or turn it into a partisan weapon, who employs it to do violence to fellow human beings, vulgarizes it, sectarianizes it, or treats it as an instrument of hate, does as much violence to the truth as the worst liar on earth. For, misused, even the truth can create monstrous realities.

LSD Offers Workshop

A workshop for the Texas law schools will be held on Nov. 14 at Baylor Law School. The session will be devoted to Model Court Rule which will allow 3rd year law students to represent indigents. Details next issue.