

Keys to the Jail—I

Rich Can Purchase Pretrial Freedom, Wait in Cell May Ruin Poor Man's Life

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First in a series

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James Henry Walker is 19 and never has been convicted of a crime—but he has spent 26 months of the last three years in the District of Columbia Jail.

Twice Walker, of 1963 Biltmore st. n.w., was charged with robbery. Because he could not make bond, he was jailed to await trials. Both times he was judged innocent.

Walker's problems are the result of the bail bond system.

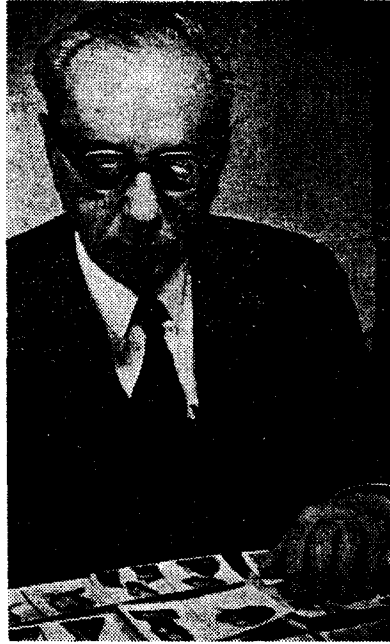
This system evolved centuries ago, in Medieval England, for letting accused thieves and rogues out of the countryside's disease-infested jails until the traveling justices arrived to conduct their trials.

A responsible friend or official would guarantee the accused person's return to trial. If he failed to show up, the "surety" was arrested in his place.

As the system was adapted to the American colonies a few centuries later, a money bond was substituted for the trusting friend.

In Washington, 1966, as in cities across America, the bail bond system, as it is now called, has not changed much—and more and more people are saying it never did

See BAIL, A9, Col. 1



By Norman Driscoll, Staff Photographer
Max Weinstein and his private rogue's gallery

work very well and still doesn't.

A man is arrested. A judge sets a trial date and fixes an amount of money that must be posted with the court before the defendant can be freed until his trial.

Few men can afford the bail amount for criminal charges—ranging from \$300 to \$10,000 and up—so they pay a percentage (called a premium) to a bail bondsman who posts a bond for the full amount with the court, freeing the defendant.

But many people still cannot afford the bond premium, which is set by law at \$80 for the first \$1000 of bond and \$50 for each additional \$1000. Some others who have the money are turned down by the bonds-

men as bad risks.

Today, nearly 500 of the 1000 prisoners in the crowded D.C. Jail are being held there only because they cannot post bond while awaiting trial.

They have been convicted of nothing; each is presumed innocent of the charges against him. Yet each will spend from three months to more than a year behind bars waiting for his innocence to be affirmed or disproved in court.

Critics of the bail bond system say:

- Rich defendants can buy their pretrial freedom from jail, but the poor must remain behind bars.

- The bail bondsmen "hold the keys to the jail" because they, not the

judges, have the final say over which defendants who can afford bond are released.

In an opinion three years ago, Judge J. Skelley Wright of the U.S. Court of Appeals here wrote:

Certainly the professional bondsman system as used in the District is odious at best.

Hold Keys to Jail

"The effect of such a system is that the professional bondsmen hold the keys to the jail in their pockets. They determine for whom they will act as surety . . . The court and the U.S. Commissioner are relegated to the relatively unimportant chore of fixing the amount of bail."

Last year, two other judges of that court recalled Wright's words when they freed, without money bond, a young man who had been in jail nine months even though a small (\$500) bond had been set for him.

The man had told the court that he had offered the \$40 premium fee for the bond to several Washington bondsmen, but none of them would accept it and get him out of jail.

Can Act as Pleases

One critic of the bond system says that because the bondsman is not a public official, he "can act pretty much as he pleases. . . . He can refuse to write a bail bond because it is Sunday or because it is snowing."

Washington bondsmen say, however, that "it is strictly a business decision." One of them, David E. Resnick, says "If we think there is a good chance the defendant will run away, we refuse to take him out, even if he has the premium money."

He admits that this might apply to a first offender, "especially if he's an out-of-towner, who hasn't been in court before and might be afraid to come back."

Max Weinstein, who runs Washington largest bail bond business, said he also refuses to write bonds for defendants charged with certain crimes, like narcotics offenses. "That bothers me," he says.

"Get Rid of Them"

If one of his agents signs

up a narcotics offender by mistake, he said, "I get rid of them right away" by surrendering them back to the court.

On the other hand, Resnick said, he often will write a bond for "the average professional criminal" even if the man cannot afford the premium fee at the moment.

"See those two guys," Resnick said in a General Sessions Court hall one day. "They have records as long as your arms. I have them out on bonds in two different cases right now.

"And I'll bet that by the end of the month, long before these cases are settled, they'll get busted (arrested) again. And I'll be at the precinct station to write another bond for them when the police bring them in."

"I guess I'm giving them a license to steal every time I do that," Resnick said, "but they're good bond risks. They pay me sooner or later and they always show up in court. They're used to it.

They know their way around here better than I do."

The bondsman added: "All this is perfectly legal." And it is. It is all part of the system.

"It's not so much what the bondsmen do," one critic has said, "but what the system allows them to do, that is all wrong."

Because of the system, Jim Walker undeservedly spent 26 months of his young life in the D.C. Jail.

Because of the system, George Ray Smith Jr.'s life has crumbled.

First Brush With Law

Until he was arrested last December for attempted rape, Smith, 27, had never been in trouble with the law. He had held the same job for two years and his employer wanted him back despite his arrest.

But even though Smith's family borrowed the money to pay his bail premium, no Washington bondsman would write him a bond without additional security. Finally, Smith's bond was reduced and his lawyer personally persuaded a bondsman to free him.

By that time, Smith had

spent nearly four months in jail. His wife had been evicted from their apartment for non-payment of rent and someone else had been hired for his old job.

Bucking a Trend

In one recent trial in District Court here, three young defendants were found innocent of rape by a jury, but only after each had spent 11 months in the jail because they could not post bail bond.

Two other defendants in that case were found guilty and both of those were free on bond until their convictions.

The three men who waited nearly a year in jail to be found innocent had bucked a trend.

A recent study by Georgetown University law professor David J. McCarthy showed that defendants in the U.S. District Court here who waited for trial in jail were more often convicted and less frequently placed on probation than those on bond.

A Preliminary Screen

Of course, bondsmen do serve as a preliminary screen and better "bond" risks usually are the type of person more likely to be given probation.

But a survey of Washington criminal lawyers by the Junior Bar showed that three-fourths of the attorneys here believe that their client's being in jail pending trial hurt their preparation of his court case.

MONDAY: The Bondsmen Get Their Man.