

# Kamisar Talk Rekindles

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A prominent criminal-law teacher said yesterday that Attorney General Nicholas deB. Katzenbach probably won the debate last summer with Chief Judge David L. Bazelon "in the mass media" but lost it in the courts and law schools.

The debate, which concerns the right to legal counsel of poor and rich persons accused of crime, was conducted in a widely discussed exchange of letters between Katzenbach and the Chief Judge of the United States Court of Appeals here.

Yale Kamisar, professor of

criminal law at Michigan University, kept the debate alive yesterday with a speech at Lexington, Ky., in connection with dedication ceremonies for the University of Kentucky's new College of Law building.

Kamisar, an outspoken supporter of court decisions enlarging the rights of the accused, titled his speech, "Has the Supreme Court Left the Attorney General Far Behind?" The title referred to Katzenbach's charge that "the courts have left the public behind" in some decisions.

The professor's theme was that Katzenbach, by resisting proposals to make counsel more readily available to indigent suspects in police custody, was using the poverty of some suspects as a means to reduce the scope of rights already guaranteed under Supreme Court rulings.

Bazelon, who said that denial of counsel at the stationhouse worked the severest hardship on the poor and

ignorant, was outpointed by Katzenbach because the Attorney General shifted the terms of the argument, Kamisar said.

While Bazelon was addressing himself to the right-to-



JUDGE BAZELON



NICHOLAS KATZENBACH

... figure in symposium at law school dedication

## Counsel-for-Indigent Debate

torney General sought to keep from becoming a public debate, began when Bazelon protested the counsel provisions of the proposed model pre-arraignment code being drafted by advisers to the American Law Institute.

#### Provisions of Draft

The tentative ALI draft would permit a suspect to retain counsel during police interrogation, but it would not require police to provide counsel for those who could not afford it. The drafters, headed by James Vorenberg, Justice Department attorney and executive secretary of the President's Crime Commission, said the state had no obligation to furnish lawyers but must remain "neutral."

Bazelon charged, "It is only a pretense of neutrality to permit those able to retain counsel to protect their rights effectively while refusing to provide equal protection to the poor and inexperienced."

#### Speech Criticized

*In a special dispatch to The Washington Post, Wilson Wyatt reported from Louisville on a panel discussion that followed Kamisar's speech.*

Richard H. Kuh, of the New York University School of Law and former assistant to the District Attorney of New York City, made sharp criticism of Kamisar's speech.

He said that "Kamisar is a monumental picture of a law professor who puts himself in the role of the prosecutor without really being one. The Attorney General is, indeed, a prosecutor."

Edward L. Barrett Jr., dean of School of Law at the University of California also was a member of the panel. His position, as a contributor to the ALI model code, was contrary to Kamisar's.

Also on the panel were Walter V. Schaefer, Justice of the Illinois Supreme Court, appointed by Adlai Stevenson in

1951, and Gerhard O. W. Mueller, professor of law at New York University School of Law.

counsel question, Kamisar said, the Attorney General preferred to talk about the broader advantages of rich over the poor. He skillfully pointed to other Government programs attacking poverty and said the courts "overriding purpose" was not to insure equal treatment, Kamisar said.

But Bazelon never claimed that equal treatment, or any other single aim, was the courts' "overriding purpose," said Kamisar.

"The issue," Kamisar said, "is not whether we should give the poor and ignorant so many points because they are poor and ignorant, but whether, because they suffer from these deficiencies, we should deprive them of rights and privileges."

The Bazelon-Katzenback correspondence, which the At-