

Bazelon Charges 'Threat to Rights'

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Judge David L. Bazelon came down off the bench yesterday to criticize Attorney General Nicholas deB. Katzenbach, U.S. Attorney David G. Bress, the President's crime commissions and bar groups working on new criminal law proposals.

Bazelon, Chief Judge of the United States Court of Appeals here, told the New York Civil Liberties Union that Government agencies and lawyer groups are entertaining ideas about law enforcement that "would seriously infringe on our civil liberties."

He said there was danger of "cheap and easy answers" in the form of increased police power, threatening individual rights without going to the roots of the crime problem.

Bazelon's charges were made at a time of increased controversy over law enforcement and the constitutional rights of suspects. The Supreme Court will hear arguments next week in five cases challenging confessions obtained when prisoners were without legal counsel.

Previous Exchange

The Judge and Attorney General have exchanged criticism before, but the tone of Bazelon's speech was more personal than their correspondence last summer over the controversial draft of a proposed American Law Institute code governing police and prosecutor conduct.

"I would remind the Attorney General of the presumption of innocence," Bazelon said in answer to a recent statement by Katzenbach that the debate had wandered from guilt or innocence to "an argument of equality."

In rejecting Bazelon's demand that counsel be provided for the poor upon arrest, Katzenbach had said the equality argument "says that whatever the rich defendant has the poor defendant should

have, and there's been rather a tendency to forget about whether there's innocence or guilt involved."

Bazelon countered that when police are questioning a suspect, "We don't know whether there's innocence or guilt involved. It is to answer that question that we have trials."

The Judge said discrimination between rich and poor, letting the rich hire counsel but denying counsel to those unable to pay a lawyer, is wrong in a civilized society. "The Bill of Rights was not designed solely to promote efficiency — conviction of the guilty and acquittal of the innocent," he said. "It was designed also to protect other values unrelated to, and sometimes inconsistent with, mere efficiency — such as privacy, decency and equality."

Poor Are Suspect

Bazelon said he suspected that discrimination against the poor reflected "an opinion that our society can live with certain constitutional rights and privileges only if enough of its members fail to assert them." He said that the poor and ignorant, "the bottom of the socio-economic barrel," are usually the suspects in violent crimes and are the least likely to know their rights.

Turning to Bress, the Judge said the District of Columbia's top prosecutor ignored the Administration's own policy in his response to a bid by the Neighborhood Legal Services Project which is financed by Federal poverty funds, to have police give suspects the Project's telephone number.

Bress's first response was that instant legal help would mean "the end of interrogations." He later said that he would await Supreme Court rulings. Still later he said that endorsement should come from the bench or organized bar before police should be allowed to refer prisoners to one source for legal advice.

Bazelon said the Justice Department had not disavowed Bress's position despite Feder-

al policy encouraging legal help for the poor. "And they

still call it the Department of Justice!" he added.