

Herald and News

Editorial Page

Let The Experts Speak

American lawyers still may not be facing their great responsibilities in this period of racial strife and constitutional test.

It is commendable, of course, that leaders of the bar have agreed to establish a committee to work for eased tensions.

But this could mean no more than that lawyers would offer their services as negotiators and pacifiers in difficult situations, just as any civic-minded citizens might do.

What is needed from lawyers is something they can contribute uniquely: a brighter, clearer light on the broad range of constitutional controversies which have been stirred as the racial struggle has sharpened.

The lawyers could start at an elemental level, with profit to all of us.

For example, what are "civil" rights? To what extent are they federal in character, whether or not spelled out in the United States Constitution?

Article Nine of the Constitution's Bill of Rights says "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

What does that mean? Lawyers ought to be able to tell us what the courts and the country's best legal minds think.

Then, what are states' rights?

The other day, Gov. Ross Barnett of Mississippi said "a state that loses the right to

exercise exclusive jurisdiction over its own affairs loses its political soul and its citizens have lost their most valuable freedom."

The key there, obviously, is knowing what is meant by a state's "own affairs." If a federal "right" conflicts with a state "power," which takes precedence?

U.S. lawyers have been painfully reticent on this vital subject, though it is tightly bound up in the present racial turmoil.

Southerners dispute the validity of the powerful 14th amendment, whose "equal protection under the laws" clause is the foundation of so many recent Supreme Court decisions.

What do the courts, the lawyers and the legal scholars say about the soundness of this amendment's status as law?

Who is sovereign, the federal government or the states? It may surprise many to know that the word is nowhere mentioned in the Constitution or any of its 23 amendments.

A line in the Constitution's main body says "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."

Those words are seldom spoken these days. What do they mean?

The Constitution, invested with more immediacy in our lives than ever before, cannot be the plaything of the amateurs. Let's hear from the strangely silent experts.

Poor Precedent

On its second try, the Air Force has succeeded in dumping 400 million 3-4-inch copper needles into space around the earth.

The object of the experiment — called West Ford II—is to create an artificial ionosphere which could be used to bounce extremely short-length radio waves between two points on the earth.

The project was almost universally opposed by the world scientific community. Apparently, however, fears that the needles would interfere with radio astronomy observations of the universe have not been borne out, although one Soviet astronomer has charged that the layer of needles is seriously hampering the study of outer space.

Evaluating the scientific effects of the needles is something that will have to be left

to the scientists. But it should not be difficult for laymen to understand one aspect of the West Ford project.

This is that the United States is setting what may be dangerous precedents by commandeering outer space for its own purposes. A similar occasion was the exploding of a nuclear bomb in space last year — against the protests of world scientists — to create an artificial radiation belt.

With such precedents established by ourselves, we will have slight leg to stand on should the Russians pull off an experiment we don't like. Our professed desire to extend the rule of international law into space carries little weight when stacked up against what we actually practice.



HOLMES ALEXANDER . . .

Commerce Clause Cloudy

By HOLMES ALEXANDER

WASHINGTON, D.C. — In 1787 the Founding Fathers innocently wrote into the Constitution that "Congress shall have power . . . to regulate commerce with foreign nations, and among the several states and with the Indian tribes."

This, the famous "commerce clause," is now the chief peg upon which Atty. Gen. Robert Kennedy has hung his argument of the Public Accommodation Act to integrate "substantial" businesses which provide public services of food, lodging and entertainment.

In the Attorney General's opinion "interstate commerce" is only limited by the late Justice Jackson's words: "If it is interstate commerce that feels the pinch, it does not matter how local the operation which applies the squeeze."

Thus, a customer at a local hot dog stand becomes protected by the commerce clause if he asks for mustard that has been brought across the state line.

Senator Lausche has tried to bring the Attorney General back to the classical definition of interstate commerce. For years it was held by the courts that an item was "interstate" from the time it left its place of origin until it reached its destination and assumed a static condition. The Attorney General offered a list of federal statutes based on the commerce clause. They related to: railroads, automobiles, atomic energy, monopoly, communications minimum wage, false branding of goods, coal mine safety, transport of explosives and firearms, labeling of poisons, electrical transmission, gambling devices, "hot oil," the stock market, labor relations, narcotics, meat labeling, natural gas, plant quarantine, tobacco, cotton and grains inspection.

"All of that list," replied Lausche, "relates to health, safety and prevention of fraud."

The Public Accommodation Act is something different. Although

it is aimed at giving "rights" to purchase lodgings, food and entertainment by any well-behaved person, the bill actually is one that imposes "obligations" upon the merchant of such services. Kennedy thinks the act is mild because it contains no criminal penalty of fine or imprisonment for violation. But the violator would be subject to injunction. The courts would undoubtedly enjoin him to cease and desist in rejecting customers or risk being cited and punished for contempt. It is conceivable that federal troops or federalized national guardsmen would be used to force the door of a recalcitrant innkeeper or the landlady of a "substantial" boarding house.

"Where it will all end," to quote a famous parody on Time-style, "knows God." The stretch-

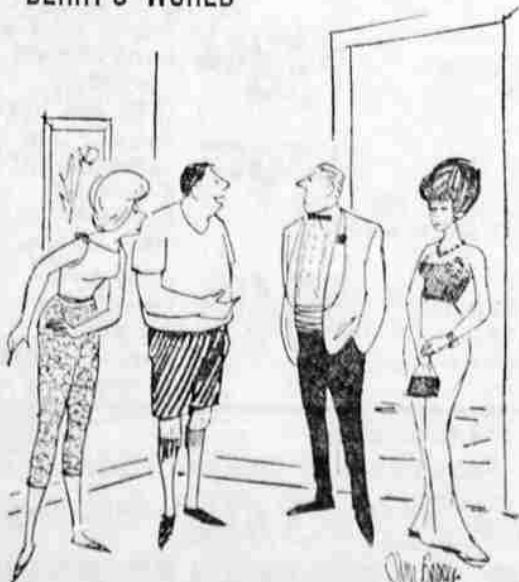
ing of the commerce clause has gone on so long that constitution-minded Senators despair of halting the process. Back in 1939 Justice McReynolds, dissenting in the Fainblatt case, denounced the stretching process. He said:

"Of course, no such result was intended by those who framed the Constitution. If the possibility of this had been declared, the Constitution could not have been adopted. So construed, the power to regulate interstate commerce . . . permits disruption of our federated system."

Said Lausche to Kennedy: "To cure one wrong, we must not create another by taking Constitutional rights away from other people."

Many will think that Lausche's cause is hopeless. We must wait and see.

BERRY'S WORLD



"... And I'm Jim Formal. Welcome to our little party!"

Whose Rights Being Usurped?

(In The Oregon Statesman, Salem)

By CHARLES SPRAGUE

On July 4 some prominent clergymen were arrested at Baltimore on a charge of trespassing when they joined with persons of white and black races to enter an amusement park at the edge of the city. The park is privately owned, and the proprietor excludes Negroes. The purpose of the march was to induce the owner to remove his race barrier and open the park for persons of all races. Among those arrested were Dr. Eugene Carson Blake, chief executive officer (stated clerk) of the United Presbyterian Church; Rabbi Morris Lerman of Baltimore; Monsignor Austin J. Healy, with six other Catholic priests; the Rev. Michael Allen, rector of St. Marks-in-the-Bowery (Episcopal), New York City. This was clearly a planned protest by representatives of the Protestant, Catholic and Jewish faiths. Their joint statement said:

"Central to our religious commitments is the common teaching of our faiths that human rights, given of God, are inalienable, take precedence over property and must be guaranteed by civil society.

"So motivated, we reluctantly agreed to break the letter of the law in order to direct the attention of the faithful to the tragic gap between ideal and practice in our democracy a century after the Emancipation Proclamation."

The proprietor of the park then issued his statement, saying that ordering the arrest of the clergymen "was the most difficult thing I have ever had to do." He went on to say:

"But after much soul-searching on the manner in which to protect the equally God-given right of our citizens to their private property, we felt we could not show less courage than the men of the cloth."

"Without attempting to debate the philosophic theories involved, we took the practical sound businessman's approach of meeting the conditions of the world around us as we find them to be, and not perhaps as we would like them to be."

There you have clear statements of the conflict which arises over demands for desegregation of places of public accommodation. Selection of customers or clients has been regarded as one of the freedoms enjoyed by a merchant or professional man; and it is hard for persons to yield that right.

On the other hand where the basis of selection is color and is founded solely on prejudice against dark-skinned persons, a grave injustice is done those of that color.

The right of petition and of peaceful assembly is guaranteed under the Constitution; and the clergymen had the right to demonstrate in that manner. I do not think the obligation of their faiths requires them to violate local laws however. The dividing line on conduct in this situation was set forth quite clearly by Sen. Abraham Ribicoff, of Connecticut, who, as a Jew, is aware of prejudice vented against minority groups. Here is a paragraph from his speech.

"When citizens peaceably assemble to make their views known, when they hold mass meetings to call attention to their grievances, they are exercising a fundamental right in the great tradition of our country. But when they disregard the rights of oth-

ers, when they obstruct the peaceful activities of others, when they contribute to public disorder, they place themselves outside the law, and they forfeit their claim to achieving their own objective — the law's protection."

At the same time it is difficult to hold respect for those laws and ordinances which attempt to enforce segregation; and it must be admitted that the sit-ins in Southern diners and parks have broken down many old barriers.

There can be no doubt that the country is in the midst of a real revolution in which Negroes are resisting the discrimination they have long suffered. The demonstrations breaking out in cities and towns where Negroes are numerous challenge the old mores. There is danger though that the movement will get out of hand, to the hurt of the Negro cause. When members of his own race

throw missiles at Dr. Martin Luther King Jr. and James Meredith who dared to break the barrier at "Ole Miss" is brought to tears by jeers from Negroes that he is too "moderate," it becomes clear that extremists are moving in who will offend the great body of white Americans who pray and work for justice for the Negroes.

While decrying the excesses of the radicals in this revolution those who are sympathetic with the objectives would not be dissuaded from support of the general program for erasing unjust discrimination, such as the legislation proposed by President Kennedy. They should not be chicken-hearted and desert the battle because some Negroes go berserk or some whites in their zeal to show sympathy for the cause go "too far," as the trespassing clergymen at Baltimore may have done. This battle will not be won without some bruises.



By SYDNEY J. HARRIS

In a recent magazine ad, the company mentioned "the enormity of our effort" to obtain a certain product. What the company meant was "enormousness," and not wickedness, which "enormity" has always meant.

Why complain about a minor error of this sort, ask the modernists in speech? As long as people know what you mean, what difference does it make which word you use? Besides, words change their meanings from century to century—sometimes, almost from generation to generation.

There is some truth in their

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position, but not enough to outweigh the disadvantages of using words loosely and sloppily. If "enormity" ceases to mean a kind of large wickedness, and comes to mean the same as "enormousness," then we have lost a valuable word, and gained nothing. One tool of language has been dulled beyond repair.

Consider another more prevalent example—the modern use of "disinterested" to mean "uninterested." Properly speaking, a judge is "disinterested" in a case—that is, he is interested in an objective and impartial manner. This is a most valuable word to describe the role of a "disinterested party." If, however, it is used interchangeably with "uninterested," we have simply given up something for nothing.

I don't believe that words should be preserved merely for their antiquarian or traditional value; the only test should be whether they fill a verbal need. When they do, we should resist all efforts to eliminate them or modify their meaning.

"Imply" and "infer" are also losing their distinction: I "imply" by what I say, and I "infer" from what you say. If these two are used interchangeably, then communication becomes even more confused. Since semantic confusion is already so great in our society, loosening the bonds of meaning even further can only create greater mischief.

We cannot prevent language from changing, nor should we. But the changes should be gradual, sensible and advantageous. Purists, for instance, object to "contact" as a verb ("I contacted John yesterday"), and indeed it is an ugly construct; yet it avoids the cumbersome "got in touch with" and does not muddy the waters of meaning.

The other evening, a friend mentioned the phrase "the lion's share." Everyone uses it today to mean the larger part, when actually it means the whole part, in Aesop's fable. By distorting this phrase, we are left with no expression to indicate the situation in which the lion grabs the whole part. We are continually whittling down the language in this way, and it is up to teachers, writers and other guardians of speech to protect us from the consequences of our verbal folly.



EDSON IN WASHINGTON . . .

UN Hikes Efficiency Of Special Programs

By PETER EDSON

Newspaper Enterprise Assn. WASHINGTON (NEA)—In spite of all its difficulties, the United Nations is now said to be beginning to find its way around. In the opinion of Harlan Cleveland, assistant secretary of state for international organization affairs, this is particularly true of the U.N. specialized agency programs in the developing countries that need help the most.

The popular impression of the U.N. is that it is as clumsy and unsure of itself as most teen-agers. It is badly financed. It is not as well staffed as it should be because the principle of a completely impartial, international civil service has not yet been established. Also, the split between Communist and free nations makes complete cooperation impossible.

It may take the rest of this century for all these flaws of organization to be worked out by meaningful charter revision and the slow evolution of what U.N. can and can't do.

One of the encouraging signs, Cleveland believes, is found in the appointment of U.N. "Resident Representatives" to coordinate programs in countries being given the world organization's specialized agency technical assistance.

There are now 61 of these U.N. resident representatives serving in the developing countries. They act as top advisers to government officials in the countries to which they are assigned and oversee the work of two or more aid programs.

In some countries the resident representative is given diplomatic status and ranked as an important consultant. In other countries he is considered just a liaison officer or a technician with a special mission in his own field of competence.

There is no established protocol governing the rank of responsibility of a resident representative. None is a native of the country to which he is assigned. George Ivan Smith, an Australian, is mentioned by Cleveland as a typical resident representative doing an outstanding job in Tanzania.

Present practice is for the resident representative to be appointed by the head of the U.N. Expanded Program For Techni-

cal Assistance—now David Owen of the United Kingdom—with the concurrence of the U.N. Special Fund director for preinvestment planning—now Paul Hoffman of the United States.

The idea is growing, however, that these resident representatives should be appointed by the U.N. secretary general and that they will become, in effect, U.N. ambassadors.

It is believed that such a development would give the U.N. increased status in the countries to which it gives aid. It would also simplify operations for receiving governments.

First step toward coordinating the work of the U.N. specialized agencies has just been made in a recommendation to the State Department from its Advisory Committee on International Organization, headed by Sol M. Linowitz of the Xerox Corp., Rochester, N.Y.

Its plan is to put U.N. Technical Assistance and Special Fund Planning — a \$250 million operation last year—into the program.

This is one of three reorganization plans being submitted to the U.N. by the United States. The first dealt with improving the staffing of U.N. agencies. Some of the reforms suggested last year to Secretary General U Thant are now being put into effect. The final report, still in preparation, will deal with U.N. financial and budgetary operations which are still in something of a mess.

The six-week special session of the U.N. General Assembly just adjourned in New York failed to come up with any permanent solutions to the problems of how to make member countries pay their assessments.

As of May 31, 11 nations owed a total of \$556,000 on 1961 assessments and 30 nations owed a total of \$5 million on 1962 assessments.

The special session finally adopted seven resolutions which will tide the U.N. over through Dec. 31. This year's assessments are now \$11 million in arrears. But the same problem for next year will be back on the agenda of the new General Assembly convening in mid-September. It is generally admitted that it will take a long time to put the U.N. on a sound working basis.



THE GLOBAL VIEW . . .

Russia, China Have Same Goal For West

By LEON DENNEN

Newspaper Enterprise Analyst WASHINGTON (NEA) — What can the West gain from the quarrel between Russia and Red China?

Nikita Khrushchev's and Mao Tse-tung's negotiators in Moscow are men equally intent on destroying democratic society in order to create a universal Communist state.

Mikhail Suslov, the tall, gaunt and austere Russian who represents Premier Khrushchev, is a fanatic supporter of Stalin's tough policies in the Soviet Communist Party.

Mao's top delegate, the dwarf-like and crippled Teng Hsiao-ping, is secretary of the Chinese party and a seasoned veteran of the dispute between Moscow and Peking.

Suslov and Teng like Khrushchev and Mao, differ on the proper Marxist-Leninist strategy on how to "bury" the West. But their dispute is about the time element—how soon the burial should take place — and not about the final goal.

Does Premier Khrushchev therefore represent a "lesser evil," as some of the State Department's perennial optimists seem to think? Should the West "rescue" the Soviet premier by offering him trade, long-term credits and concessions on points in dispute between NATO and the Soviet bloc?

Such a policy is strongly urged by Harold Wilson, leader of the British Labor Party, who is likely to succeed Harold Macmillan as prime minister.

It is backed by powerful West German industrialists like Berthold Beitz, manager of the Krupp Works and close associate of Bonn's incoming chancellor Ludwig Erhard.

Beitz has recently engaged in secret negotiations with Premier Khrushchev in an effort to drum up business for West German industries.

However, in the view of life-long students of the Red conspiracy, the West has nothing to gain from a policy that would pull Khrushchev's chestnuts out of the fire. Such a policy was tried by the Free World in 1921 when Lenin manufactured his "New Economic Policy." It only strengthened Moscow without advancing the cause of freedom.

Mao seems convinced that the United States, the strongest NATO

nation, is merely a "paper tiger" which will continue to appease the Reds in the face of "revolutionary pressure."

The Russians have a healthier respect for America's atomic might and determination to fight for its life. Their strategy is thus to lure the suspicions of American "liberals." They hope that the Free World will "dig its own grave" — as Lenin predicted — by helping to strengthen the economy and military machine of the Red world.

Suslov said this plainly in an article in Kommunist, Russia's Marxist-Leninist "bible."

He said that Lenin "stressed the significance of socialist construction that would make Soviet Russia invincible" in the struggle of the "oppressed and colonial countries."

He therefore "attached great importance to the attraction of foreign capital to Russia, because it would speed up considerably the building of large-scale Soviet industry."

Suslov's comments in Kommunist give in a nutshell the true nature of controversy between Khrushchev and Mao. They also throw light on Moscow's current efforts to obtain long-term credits from West Germany, Britain, France and other NATO nations.

Khrushchev seeks to undermine democratic society through limited Castro-style wars of "national liberation" while he strengthens the Red world's economy and military machine.

Mao wants a policy of revolutionary brinkmanship. In his view, Communists at this stage should devote all their efforts to a single aim: the defeat of the West, especially the United States.

Why, then, should the West forfeit diplomatic initiative by backing Khrushchev against Mao since both aim to destroy the Free World?

QUESTIONS AND ANSWERS

Q — How many known moons has the planet Neptune?
A — Two. One revolves around it from east to west, the second from west to east.

Q — What date did Franklin Roosevelt call the "date which will live in infamy?"
A — December 7, 1942 (Pearl Harbor).