Controversial 'King of Torts' Attacks Antiquated Texas Law

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"Responsibility for the preservation of the antiquated anomalies of Texas law can be laid squarely at the doors of the banks and insurance companies, who are interested only in their own monetary gain and vested interests. There is less regulation of them in Texas than in any other state in the union, and they have the biggest lobby there is in the State capital."

With this obviously heart-felt blast at the powers he feels were responsible for his failure in the trial of Jack Ruby, trial lawyer Melvin Belli closed his review of recent legal achievements, given Tuesday night under the sponsorship of the Forum.

Mr. Belli was driven away after his speech in an enormous platinum Rolls Royce, the source of which was not revealed.

'Embush' System

Common law is the law of custom, and Texas law has been cluttered up with an enormous variety of customs from places like medieval France and 19th century Mexico—customs, according to Belli, which are anomalous and absurd in twentieth century America.

Among the features of Texas law, Belli wants to see revised are the "ambush" system, trial by jury, and the "special issues" which the judge presents to the jury in a damage suit. "There have been up to 200 questions on the list in some cases and they are obviously geared to make the jury turn in inconsistent answers, so that the verdict will be thrown out by a higher court."

Belli also criticized the Texas conservation law, whose clauses on exceptions make it unpredictable in practice, and the State's lack of a public defender system.

By contrast, Belli discussed some recently established precedents in the Common Law, some of which he was responsible for himself.

'Excising Criminality'

The case of the army major whose criminal personality was the result of brain hemorrhages caused by a head injury he suffered in the Korean War, and who has now been restored to normal by surgery, forced the courts to admit the possibility of excising criminality, legally as well as medically.

The plight of two emotionally disturbed children in California enabled Belli to create an entirely new tort, which he called "trespass to personality."

Probably most important have been decisions establishing the limits of search and seizure. The provisions of the Ninth Amendment protecting the individual are the main things which distinguish the American legal system from that of the Soviets, Belli said.

Obtain Opium

Even the pumping of a man's stomach to obtain opium he has swallowed is a violation of his tem of legal procedure in which the defense lawyer has no idea what sort of evidence the prosecution has gathered against his client.

In California, he said, the "discovery" system allows an attorney to see everything his opponent is going to use in the constitutional rights under recent high-court decisions.

"I am enough of a Victorian to believe that a man's home is still his castle," Belli emphasized. Wire tapping would mean that the government could find out what he was thinking, and if that were so, they would eventually want him to think the way they do.

Implicit is everything Belli said was the contrast between what he felt were the magnificent achievements of the Law in the West and the unlimited police state, which is restricted more by policy than by principles in the Soviet Union today.

Soviet System

The Soviet Union has a fine legal system, explained Belli, who has been there, visited the courts, and talked with law students. But their lawyers can only go so far, and no farther. They dare not displease the mysterious "they" up above.

Belli also delved into changing concepts of warrants, or companies' responsibility for the wholesomeness of their products. The burden of damages in those cases falls on those most able to bear it, the insurance companies, he said.

It is no longer impossible to prove negligence but decisions for the plaintiff are still hard to come by. The jury in a lung-cancer case against a cigarette company refused to award damages to his client, even though the foreman of the jury was so frightened by the evidence that he quit smoking.