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Observations on the Right to Treatment [Comment]

The Editors

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Observations on the Right to Treatment

The theory of a right to treatment for the mentally ill was first presented to the public in 1960 by lawyer-physician Dr. Morton Birnbaum.¹ For more than a decade Dr. Birnbaum has tirelessly crusaded for adequate care and treatment for patients in public mental hospitals. On November 19, 1971, a debate between Dr. Birnbaum and Professor Aaron Twerski of Duquesne University School of Law was conducted at the Veterans Administration Hospital in Pittsburgh, Pennsylvania. Entitled, *The Right to Treatment—Encounter and Synthesis*, this debate, and the enthusiasm and influence of Professor Twerski, captured the interest of the *Review* and has led to the observations which follow.²

The debate followed a standard format with principal remarks and rebuttal time being allotted each speaker. In addition, each speaker was later questioned by roundtable panels of experts (hereinafter referred to as the Fishbowl portions of the debate) from associated and/or interested fields on the application of the right to treatment in various areas. Following the edited portions of the debate, appear edited portions of two of these Fishbowl encounters.

The remainder of these Observations explores various problems raised in the debate itself. The first article by Dr. Birnbaum, *The Right to Treatment—Some Comments on Implementation*, addresses itself to the problems now being encountered by Alabama, which as a result of *Wyatt v. Stickney*³ is the first state to recognize a constitutional right to treatment. This article also examines the rejection mechanism which has been built into our society toward proper treatment of the mentally ill. The next article, *The Right to Treatment: Judicial Realism—Judicial Initiative*, also considers this rejection mechanism, and puts forth the proposition that judicial initiative is the proper solution to this low visibility problem of the mentally ill. The concluding article, *The Right to Treatment—Alternative Rationales*, analyzes two other areas of the law, the right to counsel and education, and from them presents alternative arguments for the judicial recognition of a constitutional right to treatment.

THE EDITORS

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1. Birnbaum, *The Right to Treatment*, 46 A.B.A.J. 499 (1960).
 2. The *Review* wishes to express its appreciation to Dr. Valerija B. Raulinaitis, the Director of the Veterans Administration Hospital, Leech Farm Road, Pittsburgh, Pa. and Dr. Robert H. Hickey, the Hospital's Chief of Psychology for their assistance in the publication of selected portions of this debate.
 3. 325 F. Supp. 781 (M.D. Ala. 1971).