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Henry W. Seney - 1931-1976

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Henry W. Seney
1931-1976

He observed, and he listened, too, this quiet man. Not as most of us do, but with senses honed on the cadences, imagery and clarity of poetry and prose. And he thought.

He brought these honed senses with him to law school. And, his legal education was not just a rote learning of the elements of burglary and rape and murder one. It was one of wonder. He wondered why these things were crimes. Why we label those who perform such acts criminals. And why those labeled criminals are placed in jails.

*“San Quentin, what good do you think you do?
Do you think that I’ll be different when you’re through?”*

The answers were in the assigned texts and cases. Easy to learn, and easier yet to apply. But they spoke of harm, and of danger, and of protection of society. And they almost always ended with the jailing of the underprivileged and the misfit.

*“You bend my heart and mind and you warp my soul.
Your stone walls turn my blood a little cold.”*

He wondered, this gentle man, of the danger posed by an inept burglar. Of the harm caused by consensual sexual relations. He wondered also of the harm caused by the manufacture of automobiles sheathed in metal no thicker than a tin can and stripped of safety devices. And he wondered why the perpetrator of a single murder done in the heat of a turmoil not likely to be repeated must be sent to prison, while tort laws are thought adequate to protect us from the causers of a thousand product-related harms and dangers—and those responsible allowed to roam free.

When his education was done, his wonder led him to learn in earnest. He learned that our criminal law, based upon intent, and harm, and danger, had not first bothered to weigh the dangers and harms for which it punishes, or even to see if they exist. He learned that we are content, instead, to allow our criminal law to implement

an unequally applied and too often obsolete morality. He learned that, when examined in the light, criminal law has precious little to do with harm, or with danger, or with the protection of society and much to do with the assuaging of our collective conscience and with keeping the streets of our metropolises safe for the functionings of the more gross harms perpetrated upon us all. And he told others what he learned.

*"San Quentin, may you rot and burn in hell!
May your walls fall and may I live to tell."*

He taught, this wondering man. The sons and daughters of the farms and coal pits of Kentucky and of the steel mills of Pittsburgh assembled before him prepared to learn all that he himself had rejected. And they did learn—all that he had rejected, all that he believed, and all that he wondered.

And he wrote. With a clarity and from a perspective not often seen in our journals. Not to show others his command of the language, or his great learning, or his cleverness. But to tell of his wonder, and of his doubts, and of his concern for the law run astray.

He strove always to carry forward the teachings of those he revered: Myres McDougal, Harold Lasswell, Fred Rodell and Robert Affeldt. And he paid to them the highest compliment of not parroting their learning, but of challenging their beliefs and laying bare their errors, so that their wisdom could be freshly applied to unplowed earth.

His work undone, as all such work must ever be, he stepped aside for others to carry out his goal and the goal of his mentors. But he left a legacy that will make their task less difficult.

Of him no one will ever sing:

*"May all the world forget you ever stood,
And may all the world regret you did no good."*

For, unlike the San Quentins of our land, he did good—he caused us to question what we were taught to believe, and to wonder. And no scholar of our criminal laws can forget he stood.

*Alfred S. Pelaez**

* Professor of Law, Duquesne University School of Law. Johnny Cash's *San Quentin* prefaced the first of Professor Seney's outstanding series of articles on our criminal law, *The Sibyl at Cumae—Our Criminal Law's Moral Obsolescence*, 17 WAYNE L. REV. 777 (1971).