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DAVID L. BAZELON

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This issue of the Law Review pays tribute to David L. Bazelon on the occasion of his twenty-fifth anniversary as a judge on the United States Court of Appeals for the District of Columbia Circuit and his twelfth anniversary as the Chief Judge of that court. It is a pleasure to join the Law Review in honoring Judge Bazelon, not the least because we are marking a milestone in his career rather than its close.

This is also the twentieth year since Judge Bazelon's pioneering opinion for the court in *Durham v. United States*.<sup>\*</sup> His place in the jurisprudence of criminal responsibility would have been secure on the basis of that case alone, so great has its impact been on the writing of scholars and other judges. But the real effect of *Durham*, which elicited both great praise and intense criticism from lawyers and psychiatrists alike, was to focus attention on the need for a careful explication of the rationales for, and means of administering, the insanity defense. The opinions of Judge Bazelon have been at the heart of that process of reconsideration, with the result that his court has contributed more to the law on criminal responsibility in the past twenty years than any other court in any comparable, or indeed much longer, period.

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<sup>\*</sup> 214 F.2d 862 (D.C. Cir. 1954).

The editors of the Review have determined that the best encomium for Judge Bazelon would be an issue on various facets of law and medicine, the area with which he has been concerned in many ways over the years. The temptation was obviously great to collect articles which would each survey the Judge's contribution to an area of the law with which his judicial career has been significantly related: administrative law, criminal law and procedure, free speech and civil liberties generally, juvenile justice, and particularly the laws governing civil commitment. Numerous notable cases came before his court before going to the United States Supreme Court for decision, and Judge Bazelon left his imprint on the final resolution of many of them, whether he wrote for the majority or in dissent.

Yet it seems fitting that we should single out one area of the law—its intersection with the medical arts and sciences—for it is this area which has most fascinated David Bazelon over the past quarter century. While a seminar he led here in 1957-59 was his first involvement with this field off the bench, it was but the beginning. He has pursued his interests in medicine and law through lectures at many universities and medical schools, as recipient of the Isaac Ray Award from the American Psychiatric Association in 1960, as a trustee of the Salk Foundation for Biological Studies, and as an active member of many groups concerned particularly with mental health. In 1961-62 he chaired the task force on law for the President's Panel on Mental Retardation, and in 1969-70 he served as president of the American Orthopsychiatric Association, the nation's largest organization of mental health professionals. His trip to the Soviet Union in 1967 as a member of the United States mission on mental health familiarized him with the political abuses of psychiatry, much to the discomfort of his American friends in medicine whom he has in recent years reminded of the abuses of psychiatric techniques and powers in this country. The great danger, as Judge Bazelon remarked in an address to our Law Alumni Society last spring, is that the "wizardry" of the mental health experts will lead us to rely on them for impossible results and to defer to their judgments on matters which ought instead to be subject to the usual controls of law in a free society.

As we honor Judge Bazelon with this issue of the Law Review, so has he honored us in the past through his association

with this school and her alumni. Our relationship goes back nearly twenty years, to the period in the early 1950's when law and psychiatry became a formal part of our curriculum. At that time, with support from the National Institutes of Mental Health, the Law School's Institute of Legal Research was conducting an interdisciplinary program in Law and Behavioral Sciences designed to bring social science methods and knowledge to bear on such legal fields as evidence, criminal law, and family law. Among other things, the Project enabled us to add a psychiatrist to the regular law faculty as a professor of Psychiatry in Law. Judge Bazelon was helpful with the entire undertaking and, as already mentioned, for two years taught the seminar in Law and Psychiatry with the first of our psychiatrist colleagues, Dr. Andrew Watson. The Judge, who had recently authored *Durham* and during this period wrote a number of significant opinions elaborating its theme and practical implications, brought unique qualifications to the classroom. In return, he received the challenge which the fresh and inquiring minds of third year law students bring to such controversial and complex subject matter. His colleagues here were delighted when, despite the rigors of the commute from Washington, he agreed to give the course a second year.

Judge Bazelon's association with the Law School happily did not end with the Law and Psychiatry Seminar. His son, Richard, now a member of the Philadelphia bar who has followed his father's interest in mental health, was a member of our Class of 1968. A number of our graduates have served the Judge as law clerks over the years, and another of his former clerks, Alexander Capron, is now a member of our faculty.

The Festschrift gathered between these covers thus pays tribute to the first quarter century of Judge Bazelon's tenure on the bench and gives thanks for the special benefits which his interest in legal education has bestowed upon us. His judicial career has been marked by a singular dedication to the achievement of equal justice for the wretched and the suffering in society, and a determination that justice be meted out with compassion. Judge Bazelon has pressed the law forward in response to social needs, and while his opinions have often been controversial, even his critics have never accused him of avoiding the difficult issues and hard choices in the cases that have come before him. In sum, through the breadth of his spirit and the

qualities of his mind, he had served his country well and added lustre to his distinguished court.

I join with his friends and colleagues in the legal and medical communities in wishing David Bazelon a very happy sixty-fifth birthday, with the hope that we may in the future celebrate other milestones in his service to the law and his friendship to this school.