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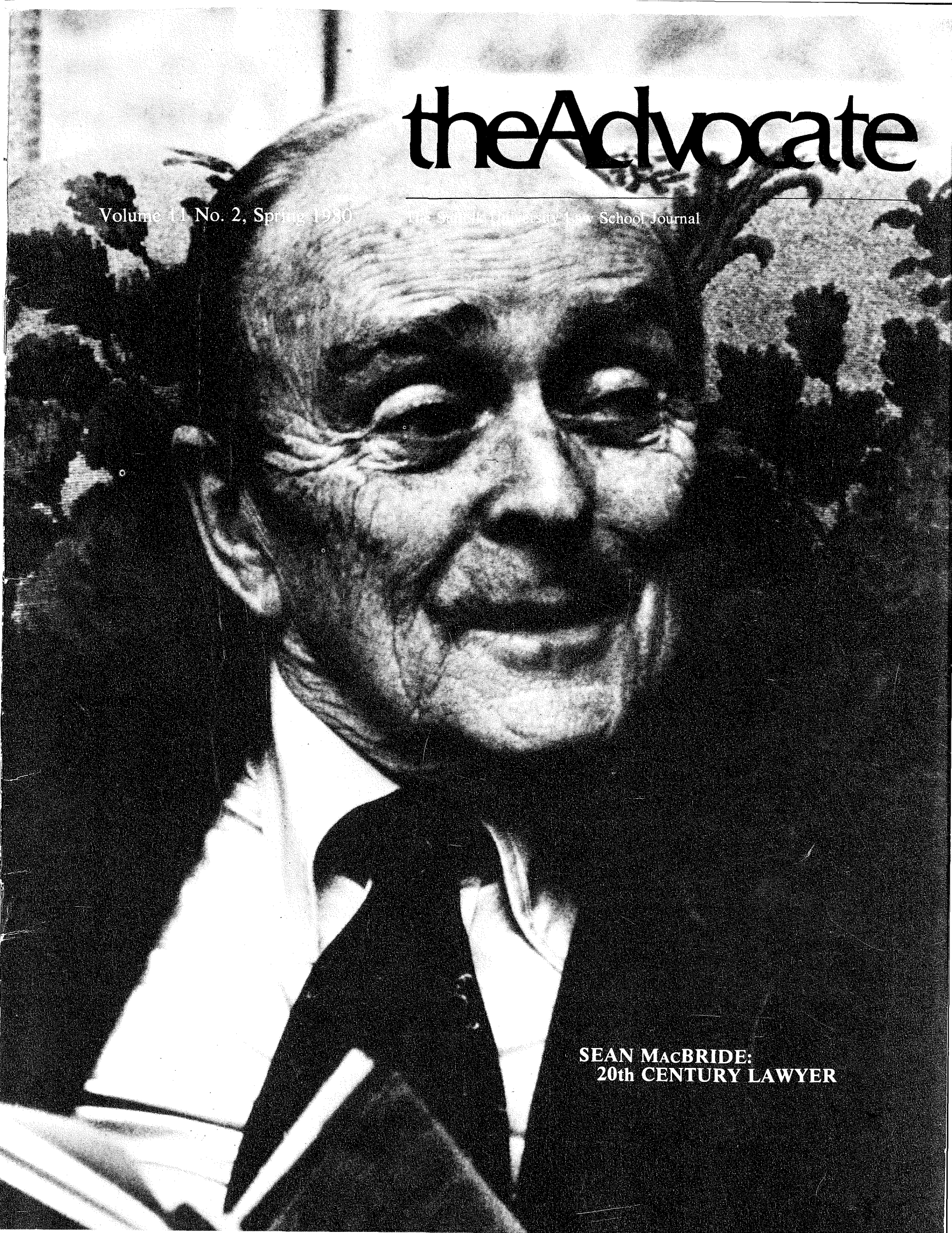
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the Advocate

Volume 11 No. 2, Spring 1980

The Saint Mary's University Law School Journal



**SEAN MACBRIDE:
20th CENTURY LAWYER**

IN MEMORIAM

Susan Svedosh
Class of 1980

Constance D. Harris
Class of 1980

This issue of The Advocate is dedicated to the memory
of two students whose loss is deeply felt by the
students and faculty of Suffolk University Law School.

theAdvocate

Volume 11 No. 2, Spring 1980

The Suffolk University Law School Journal

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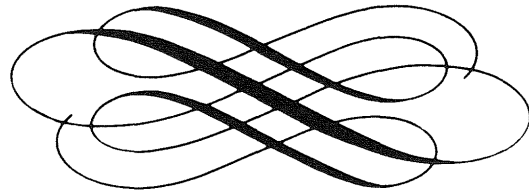
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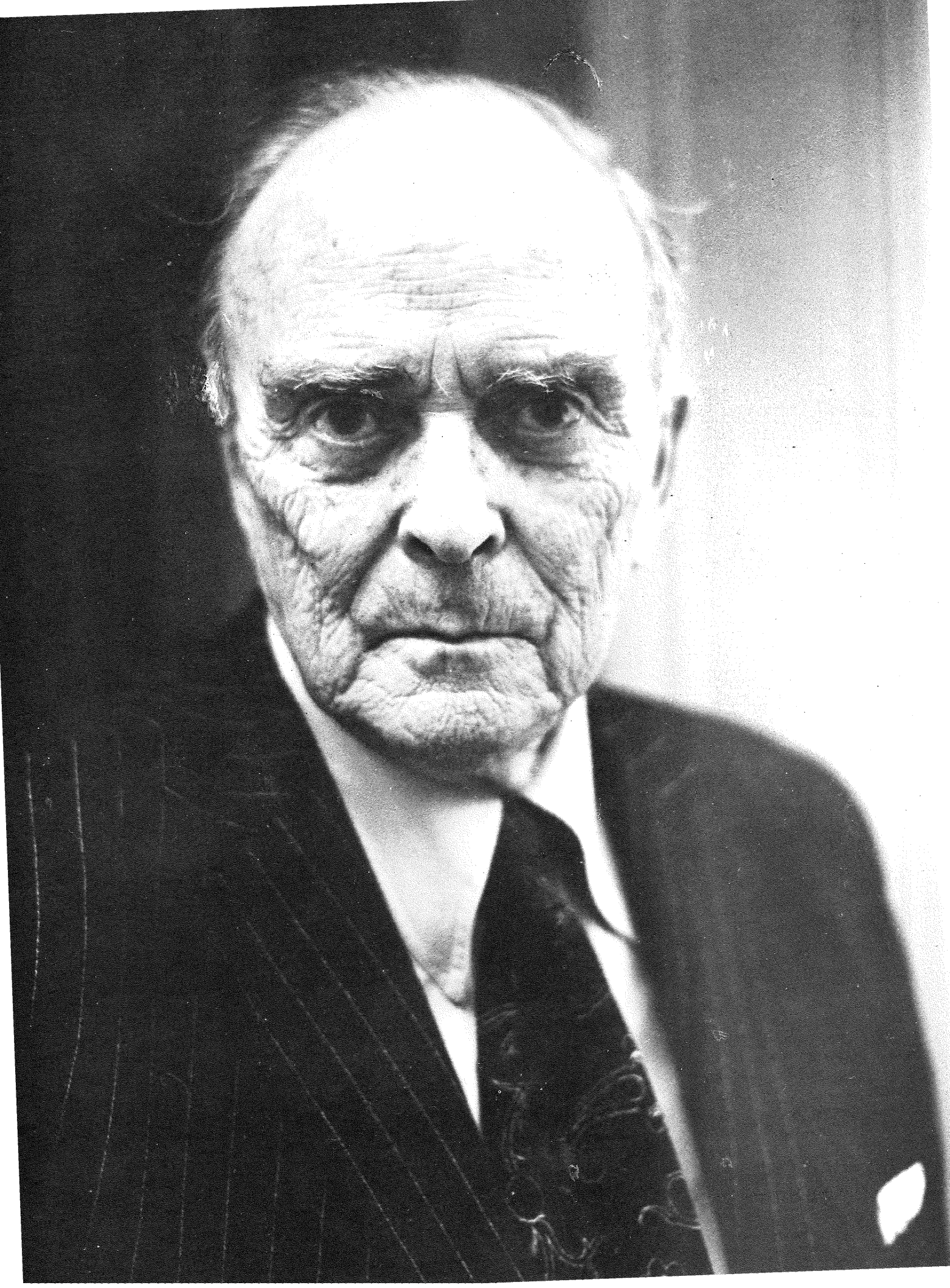
The ADVOCATE is a publication of Suffolk University Law School. Our current circulation is 9,000. The ADVOCATE is published three times a year: orientation, fall and spring issues. The orientation issue is distributed to law students only.

The objectives of The ADVOCATE are to publicize the activities and outstanding achievements of the Law School and to present articles by students, faculty and guest writers on timely subjects pertaining to the law.

All articles and editorials reflect the personal views of the authors and are not necessarily the views of the administration or faculty of Suffolk University Law School.

Guest editorials by students and faculty are welcomed by The ADVOCATE, which recognizes its obligation to publish opposing points of view. Persons desiring to submit manuscripts, to be put on the mailing list or to communicate with the staff please address all letters to: The ADVOCATE, Box 122, Suffolk University Law School, 41 Temple Street, Boston, MA 02114.

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Sean MacBride: 20th Century Lawyer

An interview conducted by Professor
Charles P. Kindregan, Herbert
Travers III, John Q. Kelly, and
Joseph A. Swartz

Sean MacBride received the Editors of the Advocate in his home, Roebuck House, Dublin, Republic of Ireland. The mansion had been the home of his mother, Maud Gonne MacBride. It was an appropriate setting in which to interview one of the great lawyers of the 20th century.

The story of Sean MacBride is a paradoxical one. It is the story of a man who made the long journey from being an avid revolutionary to the receipt of the Nobel Prize for Peace. It is the story of a man who turned from war to law, while keeping intact the belief in republicanism which had first made him a revolutionary. It is the story of a devoted nationalist, who became one of the great internationalists of his time.

BACKGROUND

Sean MacBride was born in Paris. His mother was from an Irish Protestant family; his father came from Irish Catholic stock. His mother insisted that he study Irish, but MacBride admitted to us that he never became proficient with the ancient language. His mother's good friend, William Butler Yeats, while admitting that he did not like little boys, admitted to liking Sean and described their relationship as "a great success". Although his tutors were the two

greatest poets of the 20th century, Yeats and Ezra Pound, his inclinations from an early age onward were towards action rather than literature.

THE REVOLUTIONARY

Sean MacBride became a dedicated revolutionary while still a teen-ager. Perhaps this was inevitable. Both of his parents were revolutionaries.

His mother, Maud Gonne MacBride, was dedicated to both women's rights and Irish nationalism. She became known throughout the world for her courageous acts. She led demonstrations, protested jailings, fought the eviction of farmer-tenants by landlords, spoke out against every form of inhumanity, and suffered both arrest and exile for her beliefs. The recollections of her contemporaries describe her statuesque beauty. She was a unique asset to the Irish Revolution.

The brutal execution of MacBride's father, Major John MacBride, after the 1916 Easter Rebellion shocked both Ireland and the world. At his execution in Kilmainham Jail, Major MacBride objected to a blindfold because, he said, he had looked down the barrels of English guns before. At the time of his father's death Sean MacBride was twelve years old.

After the execution of his father the English government banned both his

mother and Sean from returning to Ireland from France. However, in 1918, Maud Gonne MacBride and her son returned secretly to Ireland. First jailed at the age of fourteen, MacBride several times again saw the inside of prison.

MacBride became an outstanding soldier of the Irish Republican Army. He rose rapidly in the ranks. During the Civil War, in which MacBride took the Republican side, he and several other prisoners made a daring escape while being taken to Kilmainham Jail. He eventually became the Chief of Staff of the Irish Republican Army. In 1935, MacBride was awarded the Military Service Medal of Ireland for his participation in the achievement of Irish independence.

As a revolutionary in the early 20th century, MacBride first began to develop a sense of internationalism. He participated in conferences which brought him together with men and women of like outlook from other countries.

IRISH NATIONALIST

MacBride's every word conveyed to the Editors of the Advocate his deep love for his own country. Over dinner he showed us photographs, recently taken, along the Shannon River. He

spoke with pride of the contribution which his small country made to both Europe and the world.

MacBride's love of Ireland was reflected in his strong passion for the people of his country. The Arts Section of the New York Times recently reported a strange incident which had occurred many years before. It was the opening night of Synge's play, *The Playboy of the Western World*. The role of the prostitute was played by Rea Mooney. The world famous actress was suddenly interrupted in the middle of the play by none other than young Sean MacBride, who loudly denounced what he perceived to be the playwright's anti-Irish perspective written into that role. The Editors could hardly associate such a disruptive action with the quiet and gentle man we met in Dublin, but the passionate love of Ireland is still in him.

THE LAWYER

Sean MacBride turned from war to law during the 1930s. Perhaps his interest in the law began to develop when he himself was a defendant in a criminal case. The trial of Sean MacBride, following his arrest at an IRA meeting, became a landmark in Irish law. The ruling by Mr. Justice Hannah established the principle that the police could not arrest a person on suspicion alone.

After he became a barrister, Sean MacBride quickly developed into one of the best advocates in Ireland. At the end of the 1930s he represented Seamus Burke, who was involved in a hunger strike following the arrest of IRA leaders. MacBride won a habeas Corpus proceeding, establishing that Burke had been arrested illegally. Because of MacBride's victory over fifty imprisoned men were released.

Another famous case which helped to establish the reputation of MacBride as a lawyer was that involving the inquest into the death of Barney Casey in prison. MacBride was apparently convinced that the death was the result of government brutality. At the inquest he established that Mr. Casey had been shot in the back. The government was so embarrassed that the inquest had to be adjourned.

In the course of our discussion with Mr. MacBride about criminal punishment he expressed a deep distaste for capital punishment.

Perhaps this grew out of one of his early cases. One of his more famous trials was the defense of Maurice O'Neill. O'Neill was charged with killing a policeman, one detective Moudaunt. O'Neill, and another IRA man named Harry White, were in the area when Detective Moudaunt was shot. White was not captured, but O'Neill was arrested and put on trial for murder. Since the Irish government had instituted the practice of trying IRA cases before a military tribunal rather than a regular civil court, MacBride was forced to defend the case in an unsympathetic forum. Nonetheless, MacBride established that there was no direct evidence linking O'Neill's gun to the bullet found in the body of Detective Moudaunt. The government case was extremely weak, but the military tribunal found O'Neill guilty and sentenced him to be hanged. The government could not find anyone in Ireland willing to carry out the sentence, and had to hire a hangman from England.

Several years later Harry White was arrested in Northern Ireland and sent back to the Republic for trial. MacBride also defended White. In this instance MacBride's eloquent appeal against the death penalty was successful.

One of MacBride's most famous cases is a landmark in international law, *Lawless v. Republic of Ireland*. MacBride challenged the policy of internment of IRA suspects before the European Court of Human Rights. MacBride became the first European lawyer to challenge his own government's imprisonment policies before an international court when his application was accepted by the tribunal in 1958. As a result of this case the Irish government ended its internment policies.

Another of MacBride's cases had international political significance and helped bring about the independence of Cyprus. The British government detained Archbishop Makarios, the leader of the Cyprian Revolution, in the Seychelles Islands. MacBride represented Makarios, and succeeded in obtaining his release through habeas corpus. Makarios returned to Cyprus and led the nation to independence.

POLITICS

Sean MacBride's remarkable legal career was complemented by his

activity in politics. He founded the Clann na Poblachta (Republican Party) which after the second World War was a major force in Irish politics. Indeed, the party caused the fall of the government of Prime Minister deValera (even though MacBride had twice served as Secretary to deValera).

While his political career was short, his work as Foreign Minister made a lasting contribution to international law. MacBride was one of the primary movers in the development of the European Human Rights Convention. His work resulted in the creation of the European Court of Human Rights. Today MacBride is the last living signer of the European Human Rights Convention.

INTERNATIONAL ACTIVITIES

As he approached his 60s, Sean MacBride began an entirely new dimension in his life. He learned to use the skills of international diplomacy and law for the protection of human rights and civil rights throughout the world.

MacBride served as the legal advisor to Kwame Nkrumah, the President of the newly independent Republic of Ghana. An important contribution was his work in helping establish the Organization of African Unity.

Respect for his work in Africa resulted in several African governments recommending to the United Nations that MacBride be appointed U.N. High Commissioner for Namibia. The General Assembly unanimously elected him to this difficult position. His work in Namibia laid the foundation for what will someday be an independent Namibia.

For eight years, between 1963 and 1971, MacBride was the Secretary General of the International Commission of Jurists. In this position he emerged as a world recognized champion of human rights. He became Assistant Secretary General of the United Nations, Chairman of the Congress of World Peace Forces, President of the World Federation of United Nations Associations, and President of the International Peace Bureau.

In 1980 MacBride completed one of his most important tasks in international diplomacy. He served as Chairman of the International Commission for the Study of

Communications Problems of the United Nations. His report will be presented to the U.N.E.S.C.O. meeting in Belgrade, Yugoslavia in the Fall. For the first time, an international commission completed a detailed examination of international news gathering and news reporting for the United Nations. The report recommends that international law recognize a right to communicate, urges abolition of censorship by government, and urges special attention to restrictions deriving from concentration of media ownership, commercial influences, and advertising.

Perhaps the most lasting contribution of Sean MacBride to the human race is his role in founding of Amnesty International, of which he served as President. Amnesty International is a world-wide movement which seeks the release of prisoners of conscience. Prisoners of conscience are men or women who are detained because of their beliefs, color, sex, ethnic origin, language or religion, and who have neither used or advocated violence. The organization also advocates fair and early trials of all political prisoners, and opposes the death penalty and torture. Amnesty International literally challenges the conscience of governments throughout the world. Amnesty International has created a climate in which any government abusing prisoners must contend with a world-wide moral force.

RECOGNITION

Although he is well into his 70s, MacBride has maintained an extremely active schedule. The General Assembly voted to exempt him for the ordinary retirement age of United Nation's officials. During the early days of confusion after the seizure of the American Embassy in Iran, MacBride traveled back and forth between Tehran and Washington, attempting to keep the lines of communication open.

MacBride has continued to devote his efforts to bring about a solution to the problems of continued British presence in Northern Ireland. During our interview he was reluctant to speak about this issue because of the role of intermediary which he has played in the past and hopes to play again.

MacBride has been active in the anti-nuclear movement, the ecumenical movement, and in finding new sources

of energy.

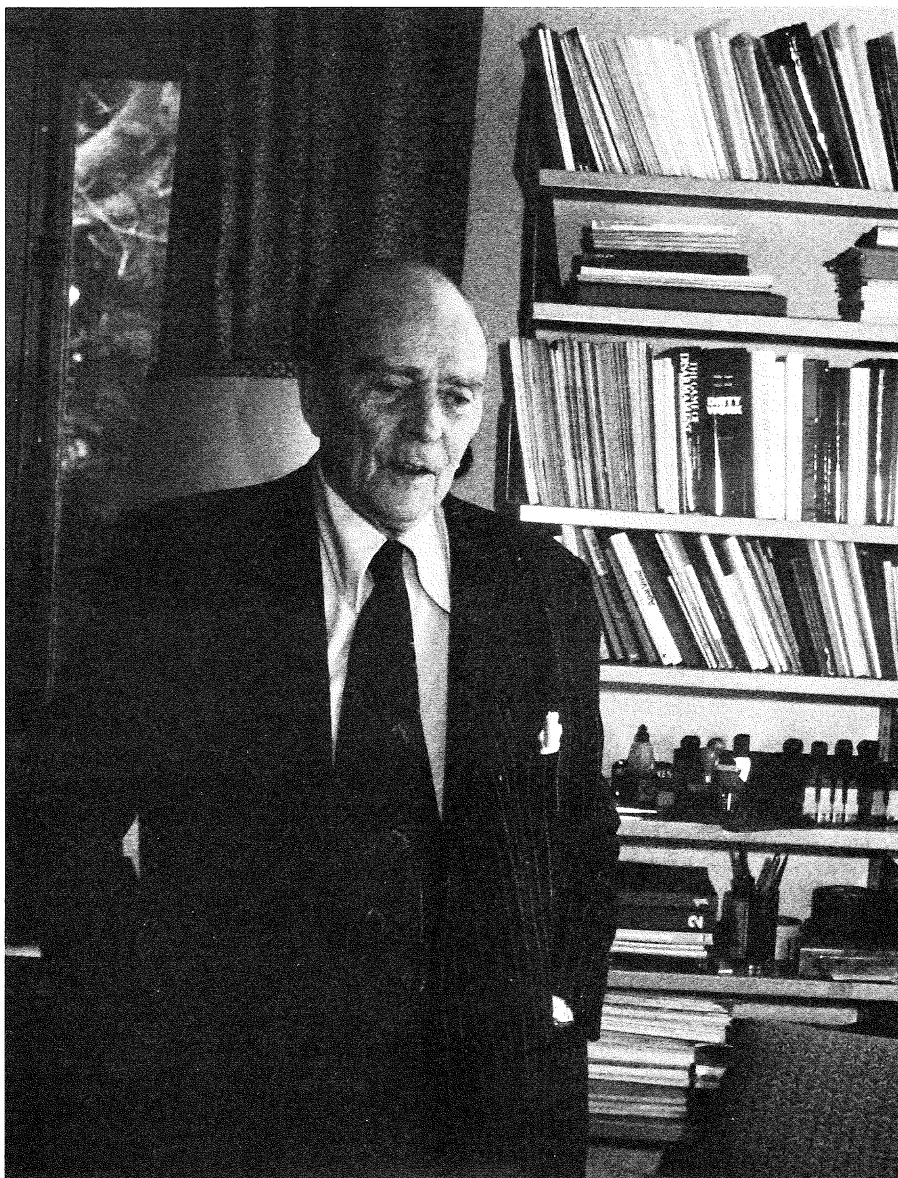
MacBride has probably won as many honors as any man in our time. He is the only man in history to have won three major peace prizes: Nobel Prize for Peace (1974), the Lenin Peace Prize (1977), and the American Medal of Justice (1978). Perhaps this recognition reflects his amazing ability to bring together people of different views in the hopes of finding common interests in peace and humanity.

Just two days before he met with us, MacBride was presented with the U.N.E.S.C.O. Silver Medal in Paris. In June 1980 he was awarded an

honorary degree by Suffolk University Law School.

However, it is not awards which impress the visitor to this man's home. It is the uncommon sense of humanity which pervades everything he says and does.

The Editors of the Advocate are pleased to present the following interview with one of the giants of 20th century law. The interview was conducted by Herbert F. Travers III (Editor-In-Chief), John Q. Kelly (Executive Editor), Joseph A. Swartz (Associate Editor), and Professor Charles Kindregan (Faculty Advisor).



THE ADVOCATE: Mr. MacBride, the *New York Times* recently described you as "the old Irish Republican warrior." It is an established historical fact that you were born into a revolutionary family, that you were arrested and served many months in jail while still a teenager, that you fought with the rebels during the revolution, and that you served as the Chief of Staff of the Irish Republican Army. How do you reconcile these activities of your youth with your ultimate involvement in law and the world peace movement? Where is the line between the principled rebel and the man of peace and law?

MACBRIDE: With regard to the years of the War of Liberation, which were 1916 up to the year 1922, there were very few young people in the country at that time who did not feel themselves under a duty to take an active part in the struggle for independence. Possibly, participation in a war is the best way to realize how awful wars are. It can help in the making of a pacifist. Quite a few people who I know in the pacifist movement became pacifists after their participation in a war. Just the other day we had here a friend of mine, a Catholic priest who has just resigned all his posts in England in order to become the secretary of the campaign for nuclear disarmament. He had been an officer in the British Army in Belfast, and had acquired quite a lot of sympathy for the Irish cause while serving as an officer in the English Army in Belfast.

During the period 1916 to 1922 there were very few young people who did not work with the I.R.A. or with the Irish Volunteers. But then I became the secretary to Mr. (Eamon) de Valera, who was the President of the Irish Republic at that time. This was an illegal government.

THE ADVOCATE: You were one of the signers of the European Convention of Human Rights. You were just kind enough to show us the original document signed by you when you were the Foreign Minister of Ireland. Since its inception in 1950, the Convention has been described as a model for the protection of human rights against abuse by governments. Do you foresee the day when governments in South America, Africa, North America, or Asia will consent to the establishment of a similar

method of protecting the human rights of individual residents of their countries?

MACBRIDE: There has been a convention adopted, the Inter-American Convention on Human Rights, which came into force last year. This was signed in Costa Rica. This is, I think, a better Convention than the European Convention. The great merit of the European Convention on Human Rights, at the time of its adoption, was its translation into binding international law (so far as Western Europe was concerned) the pronouncements which were enunciated in the Universal Declaration of Human Rights in 1948. It converted them from being declaratory principles into actual, binding, legal instruments. In addition to that, it provided for enforcement of the provisions. It set up a commission on human rights which could receive complaints and rule on the complaints when it found them well grounded. It could then adjudicate them or refer the matter to the European Court on Human Rights.

The European Court of Human Rights has proved very useful. I think by now the Commission has heard over 6,000 cases, and the court has dealt with about 30 or 40 cases. It has been very important in the protection of human rights. It has worked for about 30 years, and it really has worked very effectively during that period. It has been a valuable adjunct to the preservation of human rights in Western Europe.

The Inter-American Convention is much better. It is based upon the European Convention, but we were able to get many additional provisions in it which are not in the European Convention.

The mechanisms are much better than those in the European Convention. The Inter-American Convention on Human Rights deals with freedom of expression, the right to receive, the right to impart, and the right to publish information. The details were more precise, and much more far-reaching, and provide many more guarantees. Very little is known of the Inter-American Convention. I think, however, that it will ultimately be ratified because I think that all the Latin American and Central American states will ultimately ratify it.

THE ADVOCATE: You said that

the Inter-American Convention is better substantively but you also said that the mechanisms for enforcement are also better. Will you tell us something about that?

MACBRIDE: The right of the individual to lodge a complaint, to bring a case, is much more specific. It is much easier for an individual to bring the complaint than under the European Convention.

THE ADVOCATE: Did you argue some of the early cases under the European Convention?

MACBRIDE: That's right. I took a great part in promoting it, and drafting it. I signed it. I think I was the first lawyer to bring in a case under it, against my own government.

THE ADVOCATE: The government of the Republic of Ireland?

MACBRIDE: That is right, against the government of the Republic.

THE ADVOCATE: Was this case based on the mistreatment of prisoners?

MACBRIDE: No, its main point was an argument which should be of interest for lawyers. A man had been interned without a trial. We brought the action to contest internment under the Offenses Against the State Act. Bringing the case resulted in the prisoner being released. However, we lost the case on the grounds that the situation in Ireland at the time justified derogation. The provisions of the European Human Convention permit the government to derogate when there is a war situation or an emergency threatening the life of the nation.¹ It can only derogate to the extent that is strictly necessary to deal with the particular emergency. It can only derogate to the extent it is absolutely essential. There has been quite a lot of legislation on this, whether there has been proper derogation. This was the (Gerald) Lawless case,² the first I had, where they decided that internment without trial was a violation of the Convention. However, they also ruled that the Irish government was entitled to derogate, and thus the measures taken were not in excess of those needed to deal with the emergency.

THE ADVOCATE: Do you think there should be derogation under which a government may do things because of an emergency, which they might not do ordinarily?

MACBRIDE: This is a very

complicated, very fascinating question. There has been little work done on it. Under the United Nations Covenants on Civil and Political Rights there are certain rights from which there can never be derogation, even in times of war. So you have a rather peculiar situation in which there can be derogation under the European Convention with regard to certain rights, but under the Covenants of the United Nations there cannot be derogation.

There is another area which certainly may be in conflict. This is under the Geneva and Hague Conventions. These Conventions are legislation for wartime situations, and they guarantee certain rights. These rights cannot be derogated from even in times of war or emergency. This area hasn't been completely ignored, but the whole area of human rights legislation does become very complicated. There is the Universal Declaration of Human Rights which

was first considered purely declaratory but is now regarded by most lawyers as having become part of customary law. It has long been referred to, either by international legislation or judicial decision, so that it is now customary international law. Certainly it comes within the definition of customary international law contained in the Hague Convention and in the Geneva Convention.

I don't know whether you are familiar with what is known as Martens Clause. Martens was a Dutch lawyer who was employed by the Russian Czar in the last century. He was largely responsible for the Hague Convention. He drafted the clause which has become known as the Martens Clause.

...After the last war, really after the Declarations made by the allies, during the course of the last war, principles of human rights were converted into the Declaration of Human Rights. The Declaration was the first international

instrument to refer to human rights. Under the League of Nations there was no reference to human rights at all. Human rights didn't exist. The only laws which existed were the laws of war, which were embodied in the Hague Convention and the Geneva Convention and the customary law which grew up around them.

Martens Clause became embodied in the Hague Convention. Martens Clause provides:

Until a more complete Code of the Laws of War can be drawn up, the High Contracting Parties deem it expedient to declare that, in cases not covered by the rules adopted by them, the inhabitants and the belligerents remain under the protection and governance of the principles of the Law of Nations, derived from the usages established among civilized peoples, from the Laws of Humanity and from the dictates of the public conscience.



Joseph A. Swartz is an Associate Editor of the Advocate and a third year day student.

John Q. Kelly is the Executive Editor of the Advocate, and a third year day student.

Herbert F. Travers III is the Editor-in-Chief of the Advocate, and a third year day student.

Charles Kindregan is Professor of Law at Suffolk University and is the faculty advisor to the Advocate.

Now this recited here, in 1907, what was good customary international law. The Universal Declaration of Human Rights of 1948 really falls within the definition. In the way that human rights are protected it states a bond with the idea that states should comply with the principles of the law, the dictates of humanity, and the public conscience. I think it can be argued that the Declaration of Human Rights forms a part of customary international law. The problem was how to convert the principles of the Declaration into binding conventions having the force of law. It took a very long time for that to happen. From 1948 to 1965 it was debated at great length whether to draft covenants protecting social and cultural rights. They were both adopted finally in 1965 by the General Assembly. They were unanimously adopted. There are three steps necessary. First, adoption by the General Assembly. Second, they have to be signed by the governments concerned. Third, they have to be ratified. They were not signed for a

Martens Clause does define international law and the real test is whether it protects the conscience of humanity.

Originally, international law was only applicable to governments. Individuals had no rights in international law. The first breach of that principle was when treaties were adopted conferring rights on slaves.

After that the next breach followed World War I, in the Versailles Treaty negotiations. Rights were given to individuals under the Westphalian treaties and in the dispute between Italy and Austria. Mechanisms were set up which gave minorities rights to complain about discrimination or their treatment. This was the first recognition given to individuals or groups of individuals under international law. They could complain to an international tribunal if they were deprived of their rights.

The next major development in that area was the European Convention under which the individual could petition. Then came the Inter-

that had existed prior to the Revolution. They translated those into Russian and they became textbooks of the law schools in post revolutionary Russia. So all Russian lawyers up until now have been taught that no individuals can have rights under international law. Of course that suits them. It probably has had an effect on the legal profession in Russia. I have had endless arguments with Russian lawyers on this. They believe an individual cannot acquire rights under international law. They quote at length from old German texts which they had been taught in universities. It is funny how in a war situation or a revolutionary situation you can lose a whole slice of law.

ADVOCATE: This whole question of enforcement of human rights raises the question of the United Nations. You have been very actively pursuing legal rights under the umbrella of the United Nations. However many critics of the United Nations have said that the United Nations itself has not been sufficiently active in protecting human rights as defined under the Universal Declaration. If you were asked today to provide recommendations that would make the United Nations more effective in pursuing the goals of the Universal Declaration, what would you recommend?

MACBRIDE: I would probably recommend the setting up of a system analogous to that set up under the European Convention or under the Inter-American Convention on Human Rights. Namely, a system that would grant the right of individual complaint. We must recognize the right of an individual or group to file a complaint to a commission of lawyers who are appointed on the basis of their independence and their fairmindedness. This commission would receive and examine complaints. Where the complaint was well-founded and there is a *prima facie* case against the government they could refer it to an international court set up by the United Nations.

There is an alternative way of doing it. That is to continue to develop regional systems like the European Convention and the Inter-American Convention. There are more proposals for such conventions in the Arab world and in Africa. Thus we could build a series of regional conventions and jurisdictions of that kind and then

I think it can be argued that the Declaration of Human Rights forms a part of customary international law.

long time and not ratified until about four years ago. Many countries have not ratified them including the United States and this country. This was a tremendous mistake because the covenants have implementation machinery to enforce them. But of course there are committees set up to enforce them. These have members only from countries that have ratified it, so that the United States is actually in a weak position. It would have been much better if you had ratified and if the United States could play an active role in the enforcement of the conventions.

THE ADVOCATE: Mr. MacBride, may scholars make the point that because of the diverse legal and political views that span from nation to nation that no international law really exists. What are your feelings on this?

MACBRIDE: That is why I thought Martens Clause was so important.

American Convention which goes much further. The right of individuals to petition is recognized in a kind of way under the United Nations covenants, but not very far. The old theory of international law was that an individual could never have rights or acquire rights under international law. International law was intended solely to govern relations between governments. This was the view held very strongly by the German law professors and jurists. The law schools in Russia prior to the Revolution were very much influenced by the German writers and German jurists. When the Russian Revolution came about everybody in Russia forgot about law schools and laws for several years. They only started rebuilding their law schools and faculties in the 1920s. They had no international lawyers of note in their universities and no written textbooks. They adopted the German textbooks on international law

have a world-wide one appointed by the United Nations as a court of appeals.

There is no doubt that at the national level it is very difficult in regard to human rights to insure objectivity and fair play. Particularly in times of tension and times of stress when human rights need to be protected more carefully. Political passions and religious passions intervene and it is very difficult to have objective decisions. That is why you have to override the concept of sovereignty and accept an international jurisdiction among like-minded countries, rather than have a universal one. It is much easier for Western Europe to have its own commission on human rights, its own court on human rights. The same in America and Central Latin America, where it is easier to adopt their own views rather than using European concepts. Likewise, I think it would probably be much easier for the Communist block of states to set up their own convention of human rights and their own human rights mechanisms. I have been urging this because I think this would be a tremendous step forward to get them to do this. I think they may ultimately do it. But I think it may take a lot of time and propaganda within the Communist block. If you have all these regional conventions on human rights, regional court and commissions then you could have a world one to sit as a court of appeal. If there was dissatisfaction with the findings, of say, the European court, or with the Communist court, then there could be an appeal to this world court. This could be a branch of the International Court of Justice at the Hague.

THE ADVOCATE: One of the more commonly reported problems in our national press has been the situation in Northern Ireland where individuals are allegedly denied right to jury trial and other legal rights that are ordinarily accorded within that judicial system. I know there have been cases which have gone before the European Commission and even one before the Court of Human Rights and yet reports of these abuses continue to exist notwithstanding the regional mechanism for dealing with these problems. Would you comment on this?

MACBRIDE: Yes and no. I think

that the decision of European Courts certainly should put an end to organized systematic torture of Irish prisoners which was taking place in Northern Ireland. The cases brought by the Irish government against the British government³ and the decisions against the British government, and the promise by the British government to dismantle the existing system they had for torturing prisoners and questioning prisoners, reflects progress.

THE ADVOCATE: Do you think the basic impact of any international court of human rights or regional commission on human rights is as a public forum for airing various grievances or influencing public opinion on these violations? It doesn't seem there would ever be any real enforcement mechanism.

MACBRIDE: The decisions of the European Court are binding on governments and governments comply with them. There have been no cases that I have known of any government

Shah of Iran was overthrown by public clamor. Now this is all part of the process of swinging of the gravity of power which has been moving from governments to the public sector. This has been affecting the Communist block as well. They don't know quite what has hit them. You would never have heard of Soviet dissidents 25 years ago, even though there were some. They would have just disappeared into Siberia, and we would have never heard of them. That is because public opinion is operating even in Russia today. They can no longer stop Soviet dissidents from holding a press conference in Moscow. They punish them for it but they are not able to stop it. But 25 years ago you would never have heard of these things. There would be censorship; they would have been packed off to Siberia. There would be no trial. They would just be nabbed and packed off in a train and sent to some camp in Siberia and they would probably die there. This change in the central

So all the Russian lawyers up until now have been taught that no individuals can have rights under international law. Of course that suits them. It probably has had an effect on the legal profession in Russia.

refusing to comply with the decision of the European Court of Human Rights. They have to comply with them.

ADVOCATE: Do you think we would ever reach the point where if in the Communist block had their own commission on human rights they would concede to be bound on an appeal by the decision of a world court on human rights?

MACBRIDE: I think in time probably. This brings us to some other political issues that are very important. I think there have been important changes taking place in the world which have not been appreciated. There has been swing in the central gravity of power from governments to the public sector. This has been very marked in the western world. Public opinion influenced the Vietnam War for instance. The Algerian War was also stopped by public opinion. The

gravity of power from secret government to the public sector has affected all dictatorships as well as democracies. We notice it more here because it is publicized much more here. It has also been having its effect in the Communist countries. It will continue to affect the totalitarian governments. Governments more and more will have to govern with the consent of the people. If I am right in those premises then I can foresee a situation in which the lawyers in the Soviet Union and the people there will demand greater access to human rights.

I know from many private conversations with groups of Russian lawyers that they like the idea of human rights. Naturally their lawyers like ours would like to have more independence. Naturally they would like their clients to have more rights.

There is a movement in this direction among the lawyers.

ADVOCATE: Would there ever be a counter-reaction to that movement? It would seem that if the pendulum you speak about starts to swing too far that the Soviet block would see the need to become overly aggressive again or counter-react to that pendulum and realize that if things got too open their system of government might be undermined. Do you think there could be counter-reaction?

MACBRIDE: I don't think it will swing back. You see the pendulum swing because of two factors. Factor one is the higher standard of literacy and education in the world. People can read, write, and are much better educated and informed than before. The second factor, and nobody yet has appreciated the full impact of it, is the mass media. There can be no real censorship any more. If you were working in Siberia and you have a transistor you can hear what America is saying, what the BBC is saying, and what the Chinese radio is saying. It is fantastic the extent of which this is spreading. I am the Chairman of the U.N.E.S.C.O. commission on communications and I was simply amazed that thirty different countries

have foreign radio broadcasts like the Voice of America, BBC, Moscow radio, Chinese radio. Thirty countries are doing it systematically. Between them they transmit 12,000 hours a week of broadcasts in a hundred different languages. 12,000 hours a week. This is a fantastic output. Now this is having an impact definitely. It means that all the criticisms that the free press in the Western World directed at the Soviet regime cannot be blocked out. In Moscow's Red Square you can hear people say "I heard so-and-so on the BBC or on the Voice of America last night." They are all competing for the same audience. They have now all learned that they can only compete with news that is up to date and truthful. If they conceal something from the people they will still find out about it. The best of them probably is BBC. BBC is a superb service. It has made a tremendous effort in building up an audience and keeping an audience by having all kinds of fascinating programs, very good talks, and good music, some jazz and other music that is all aimed at getting audiences. They have a really superb service. The Voice of America has been copying them and using their same method because

they want the audience. The Russians are now copying them and some of their announcers are now copying the voices of American broadcasters. The Russians are using American accents or English accents. You have a good deal of competition between these services in providing better services. Better services mean more truthful and more in-depth reporting.

THE ADVOCATE: When we spoke of the pendulum swinging back the other way you mentioned that there are two factors which would prevent that: increased literacy and education and the mass media. Now as to your UNESCO Commission on Communications, certain people believe that you feel that certain news agencies like UPI, AP and the other large international agencies are just too powerful and there are too many economic and political influences involved in the reporting. Certain people seem to believe that you would favor government controlled news reporting agencies.

MACBRIDE: No. No. There has been an awful lot written on it. There has been a lot of misleading information published about that. We criticized, and that is why we got so much adverse publicity. We criticized



very strongly the five major news agencies. They have been flooding the world with news to the detriment of the under-developed countries of the world. The five are Reuters, AP, UPI, AFB and Tass. The five of them, including Tass, are flooding the world with news from highly developed countries ignoring the Third World countries. They seem only concerned with major-power politics. The Third World, which is the largest part of the world, is virtually not represented as far as the news services are concerned. There has been an unbalanced flow of news in and out of Third World countries. This is a problem which we are only touching on now. Also, the kind of television films that are sent out by the United States to Third World countries is one of the most harmful things to the United States. In Africa I have watched American TV films of a very low grade type. They are cheap and they can obtain them cheaply.

ADVOCATE: Are you speaking of entertainment films?

MACBRIDE: Entertainment films. Africans ask if they really behave like that in America. You see five people killed in half of an hour, and a couple of accidents, and they think that this is America. In Iran this is part of the basis of the present revolution. I am exaggerating a bit. There are two major factors that triggered off the Iranian revolution. First, there is the personal hatred toward the Shah and the secret police operations that he had formed. But there is also the reaction against what they regard as the decadence of the Western world. Religious decadence, moral decadence. The man who is President, (Abolhassan) Bani-Sadr, is outraged by the decadence of the Western world. Part of the motivation of the revolution in Tehran is to try and correct this decadence and prevent this decadence from spreading further. It is linked with the Moslem religion. But it is quite an interesting process. This is something to be analyzed and I think that a lot of the anti-Americanism you get in African nations stems from the portrayal they get of life in the Western world from American films and American papers.

THE ADVOCATE: Can you suggest alternatives to the large monopolizing news agencies?

MACBRIDE: Diversity of agencies.

We have the right to communicate. Not only the right to receive information but the right to give information. Censorship that controls information should be abolished.

Have as many as possible. Encourage local news agencies.

THE ADVOCATE: Independently owned?

MACBRIDE: Yes, independently owned. But it is very hard to get them. The five big news agencies are Tass, UPI, AP, Reuters, AFB. Tass is completely government controlled. AFB is virtually controlled by the government. Reuters is controlled by the British government. A.P. and U.P.I. are the only two that are not controlled by the government. They are certainly influenced by American political opinion because they are American based.

ADVOCATE: You must mentioned that Tass is government controlled. You said before there are two safeguards against government control: literacy and the mass media. Earlier you talked about the Russian concept of international law as not recognizing human rights. If the government controls the mass media it seems the safeguards you mentioned can not be built into the Soviet system.

MACBRIDE: I think they can't protect themselves from it anymore because largely of the transistor and satellites. It is nearly impossible to jam broadcasts. They have virtually given up jamming. They were jamming slightly.

But all of this is a fascinating topic and it never really has been analyzed sufficiently. I think that it is very important to try to get these things examined more in depth than they have been.

THE ADVOCATE: From what you tell us there has been some misrepresentation of the UNESCO Commission which you chair. The American press by and large has been highly critical of your Commission. Could you comment on this criticism?

MACBRIDE: Let me read you a few sections from the drafts of our report.⁴ I will send you copies of the final report before it is presented to the Conference in the Fall. As to

improving international reporting we recommend:

All countries should take steps to assure admittance of foreign correspondents and facilitate their collection and transmission of news. Special obligations in this regard undertaken by the signatories to the Final Act of the Helsinki conference, should be honoured and, indeed, liberally applied. Free access to news sources by journalists is an indispensable requirement for accurate, faithful and balanced reporting. This necessarily involves access to unofficial, as well as official sources of information, that is, access to the entire spectrum of opinion within any country.

That is as far as you can get.

Communication needs in a democratic society should be met by the extension of specific rights such as the right to be informed, the right to inform, the right to privacy, the right to participate in public communication - all elements of a new concept, the right to communicate. In developing what might be called a new era of social rights, we suggest all the implications of the right to communicate be guaranteed.

This is important because we have the right to communicate. Not only the right to receive information but the right to give information. Censorship that controls information should be abolished. In areas where restrictions may be considered necessary these should be provided for by law and subject to judicial review and in accord with principles contained in the United Nations Charter and the Universal Declaration on Human Rights.

Now on this, for instance, I mentioned earlier that the Inter-American Convention was much better than the European Convention. They have a much more detailed convention than the European Convention.

Now, the criticisms that have

appeared in the American press and even in the English press on the Commission are completely unfounded, and were made before the report was published. From that point of view I think that this will turn out to be the most far-reaching official document ever produced internationally dealing with freedom of information.

Our conclusions are founded on the firm conviction that communication is a basic individual right, as well as a collective one required by all communities and nations. Freedom of information, and more specifically the right to seek, receive and impart information is a fundamental human right; indeed a prerequisite for many other rights.

Of much greater importance is the swing in the center of gravity from governments to public opinion, where public opinion in turn is formed by the media and by information. This development should be protected from any interference. On the question of concentration of news agencies diversity of choice in the content of communications is the pre-condition for democratic participation. Every individual and particular groups should be able to form judgments on the basis of a full range of information and a variety of messages and opinions, and have the opportunity to share these ideas with others to the development of decentralized and diversified media should provide large opportunities for real involvement of the people in communication processes. It is very far-reaching.

I know in America you have been very worried about the question of code of ethics. In some cases the codes of ethics have been useful but they should not be government controlled and they should be adopted by the profession itself.

Codes of professional ethics exist in all parts of the world, adopted voluntarily in many countries by professional groups. The adoption of codes of professional ethics at national and in some cases at the regional level is desirable, provided that such codes are prepared and adopted by the profession itself without any governmental interference.

ADVOCATE: We have been discussing international law in various contexts. We turn for a little while to the discussion of private organizations

and their role in the protection of human rights. Amnesty International, of which you are a founder and former president, works independently of government to pursue the release of prisoners of conscience, to advocate fair trials of political prisoners, and to eliminate the death penalty and torture of prisoners. The partial success of Amnesty seems to be based on its ability to operate outside of governmental structures by bringing attention to the plight of those who have been abused. Does this suggest to you that non-legal remedies provide a more effective way, at least at present, to deal with the plight of persons who are being denied their human and civil rights?

MACBRIDE: Yes, I think that non-governmental organizations are actually essential when it comes to the protection of any individual rights. The tendency of governments is always to try and dominate. It is part of their role. It is part of their occupation to control and dominate the country, various groups, various segments of the population. This applies to a dictatorship but also applies to a democratic government. The most democratic government in the world resents being criticized by the press. It objects to it strongly. They may not say so, unless they get to a state of desperation like Nixon did and begin to criticize the press. But every government, every minister resents criticism. They are intolerant of criticism. The more power you give to an individual, the more he reacts against being criticized. They take criticism badly. That is why a nongovernmental organization is much freer to work for protection of rights than a governmental one.

Let us stop for a cup of tea...

ADVOCATE: You would much prefer independent syndicates to government controlled press?

MACBRIDE: This is a major problem. How do you control them and who has control of the press in the future? You have this paradox certainly in Europe and the rest of the world, apart from the United States, the electronic media is invariably controlled by the government. They have some control like BBC or direct control like the Russians. But the radio and television are government controlled. It may be done more skillfully, more artfully and more

pleasantly, such as BBC. The French government control of French radio is much tougher than the BBC control. Then you have Russia, where the government controls completely.

ADVOCATE: Do you want the government completely out of it? Would you let the governments retain some degree of power?

MACBRIDE: I think the government probably has to retain some degree of power, but I think you need to have some consumer control. Consumer councils, councils of journalists, to override government censorship and government power. It is not easy. It is an extremely complex business. In America all your radio stations are privately owned.

ADVOCATE: You might be interested to know that the discussion of codes and the right to receive information has been looked at by our Supreme Court in the context of lawyer advertising. The Court said that on ethical grounds you can't prohibit lawyers from advertising because of the right of the client to receive information and the right of the lawyer to give information.

MACBRIDE: That is what I find in the States always. You have no problems from the point of view of freedom of expression, freedom of information. At least, the problems you have are minor compared to those in the rest of the world. You have a good Constitution. You have your First Amendment. You have natural rights to freedom of expression. You have a good strong Supreme Court which is actually a good watchdog even though the newspapers occasionally complain about it. It is a good strong watchdog. You have no problems. But yours is about the only country without any problems on the right to information.

ADVOCATE: We have seen an increase in terrorism against diplomats in various countries. I think that this tendency to use violence or seize diplomats as hostages would be very destructive of international law if it were allowed to continue. Yet we have a problem. If you deal with the people who seize the diplomats, if you negotiate with them as for example as is now happening in Iran, you condone the initial seizure of the diplomat. Do you have any thoughts on how you deal with this type of problem?

MACBRIDE: There has been a near total breakdown in all good conduct. There has been a near total breakdown in morality in the world. I think that this comes from the fact that there has been an overactive development in scientific and technological progress and material progress. This very rapid development wasn't accompanied by an equivalent development in the sense of moral responsibility or education. So that you have very nearly a total breakdown in the rules of conduct. The rules of conduct and diplomatic conduct (have broken down). You have governments that have accepted bribes. It has been pointed out that governments have taken bribes from Lockheed. You have a couple of ministers in Italy, the Prime Minister of Japan, generals here, generals there, ministers that are all taking bribes. This is a complete breakdown in morality in the world.

It is also a breakdown in regard to social morality and sexual morality in the world. Now the same applies therefore to people who are opposing governments. Clear rules of conduct have ceased to exist, and the taking of hostages is regarded as the way you can behave now. It has been very difficult to solve these things.

ADVOCATE: Because diplomats are particularly unable to defend themselves it seems as if it is occurring more and more and there seems to be no remedy for it. In the Iranian crisis the United States government seemed to say it was not going to negotiate to get the hostages released. Yet, ultimately there was a deal on the creation of the U.N. Commission.

MACBRIDE: I refused to sit on this Commission. I made it a condition that the hostages be released before. I think the Commission's first step should have been the release of the hostages to the Commission itself, and then the Commission could act.

ADVOCATE: Do you think the United States government made a mistake in refusing to similarly impose that condition?

MACBRIDE: I think the United States government could do very little. I think the U.N. made a mistake in regard to the Commission.

ADVOCATE: If there is that sort of wide-range breakdown in social morality and moral behavior and conduct of the rules does there still

exist the criteria that go into your definition of international law? In other words if you are looking at international law through common usages and public conscience at the same time there is a wide-range breakdown of moral and social behavior, how do you find the public conscience in the common useage?

MACBRIDE: Well I think you try to find your standards from the international instruments that have been adopted. In this particular era I would try and base them on the Declaration, the covenants on human rights, the Conventions, and so on, as affecting these.

ADVOCATE: When you were the Undersecretary General of the United Nations, and also United Nations Commissioner for Namibia, you were deeply involved in questions relating to racism and colonialism in South Africa, Rhodesia, and elsewhere. Do you think that we have made progress with the general issues of racism and colonialism?

MACBRIDE: Not yet. I think we are in a transition stage, but I don't know whether the transition would be fast enough to avoid a civil war. After Rhodesia it could be Libya, after that it could be South Africa.

ADVOCATE: You are the founder of Republican Party in Ireland. The party had great success after the Second World War, but in recent years it has fallen upon hard times. Do you see any hope for the emergence of a strong republican movement within the traditional political framework in Ireland?

MACBRIDE: Not at the moment, no. No. No.

ADVOCATE: Is the republican movement over in Ireland?

MACBRIDE: The republican movement, that is another thing. I founded the *Clann na Poblachta*, but it was a party as such. The republican movement and the republican tradition is separate from that, and much wider than that, and is carried on quite different from your Republican party in the States. Republicanism here is usually a movement for independence from Britain, and establishment of democratic state here for the whole island. It dates back from 1798 when there was a republic founded by Wolfe Tone. There have been a great many of republican movements since. Ultimately I think that the country

will be unified.

ADVOCATE: I would like to turn to a personal matter if you don't mind. Your father was executed by an English firing squad in 1916. Your mother was famous for her work with the treason-felony prisoners, the land reform movement, women's rights and Irish nationalism. Would it be too much or too personal to ask you to reflect back on the impact that your parents have had on you in the development of your life?

MACBRIDE: It has, of course it has. I was born into the Irish liberation movement, and naturally it affected my thinking and the fact that my father was executed, my mother was in jail, and I was in jail when I was 14. These things, of course, gave me an added motivation to get rid of British domination here. It has also given me a more active interest in human rights. During that period I got to know and got to work with revolutionary leaders in other parts of the world. Nehru in India was a friend of mine. And the Irish Liberation movement had considerable influence in the movement for independence in India and also many of the African countries.

ADVOCATE: I wonder if you might reflect for just a minute on some of these people you have known. (Jawaharlal) Nehru⁵ for example.

MACBRIDE: Nehru I think was probably the most remarkable man in this century. He was the greatest statesman and had a tremendous ability, a tremendous integrity. He was a thinker and philosopher. You don't think of philosophers in public life.

ADVOCATE: President Makarios⁶ of Cyprus?

MACBRIDE: I knew him very well.

ADVOCATE: Didn't you represent him at one time?

MACBRIDE: I did...I mentioned to you that there are provisions whereby governments can derogate from the provisions of the (European) Convention in time of war and public emergency, threatening the life of the nation. But they have to serve notice of derogation on the Secretary General of the Council of Europe.⁷ The British government had served notice of derogation in regard to Cyprus. They could not challenge it because it undoubtedly was a state of civil war and fighting was going on all the time. But they had arrested Makarios, and they



had shipped him off to the Seychelles Islands and they had served no notice of derogation in regard to the Seychelles Islands, and they could not have indeed, because there wasn't any disturbance of any kind in the Seychelles Islands. So I brought the equivalent of *habeas corpus* proceedings before the Council of Europe Court and they had to release Makarios overnight. But they had slipped up completely on that. The security people decided to ship him off to the Seychelles Islands, without realizing that they had no derogation in regard to the Seychelles Islands. It is interesting from a lawyer's point of view.

ADVOCATE: Eamon de Valera⁸.

MACBRIDE: I was secretary to de Valera on two different occasions. Once in 1922, just after the treaty and then again in 1927.

ADVOCATE: Did you agree with de Valera's going into the government in 1927?

MACBRIDE: No. No, I agreed with de Valera's Constitution which he

framed, and which was adopted in 1937. I didn't agree with his going into the government in 1927 because he had to take a recognition of allegiance to the British government.

ADVOCATE: It was the oath then?

MACBRIDE: That is right, yes. But he pursued policies to say he was entitled to go into the government in order to get rid of the oath. This is the eternal problem. Are you justified in doing something which is not correct in order to achieve what you want to achieve?

ADVOCATE: Michael Collins⁹.

MACBRIDE: I have so much admiration for him. He was courageous, able, a unique leader. But, he was not a match for the British when it came to negotiating.

ADVOCATE: (Lester Pearson)¹⁰

MACBRIDE: I knew Lester Pearson very well. I worked with him. He was very good on human rights issues. The Declaration of Human Rights owed much to him.

ADVOCATE: There is great interest in the poet (William Butler) Yeats in

the United States. Do you have any personal recollections about him?

MACBRIDE: I knew him very well. Very well. As a child he taught me to fly kites. We had a place in the west where we used to stay with him. He died during the war and was buried in France. One of our naval ships brought back the body and he is buried here...

ADVOCATE: Kwame Nkrumah.¹¹

MACBRIDE: Yes, I knew him very well. He was very, very good for a time and then as often happens he went bad; he had too much power at once.

ADVOCATE: Yet the Organization of African Unity, which you helped found as advisor to President Nkrumah, has continued to grow.

MACBRIDE: Yes, it has continued, but it has not been as effective as it should have been.

ADVOCATE: Ireland has had a long history of tragic divisions along the religious lines. Can you see any ultimate end by which the people of different religions can learn to live together in this island?

MACBRIDE: It is religious in outward appearances, but it has not all been religious differences. This has been built up over the years. It was built up I suppose originally by the British here. Catholics were denied all rights. They couldn't own property. Their land was confiscated and handed over to planters who came in from England and who were of the Protestant religion. That created a political difference which had nothing to do with religion. But it suited the British to maintain that relation to prevent the people from unifying usually. This was kept up right up to now. But there is no religious problem down here. Protestants occupy a very respected position in the life of the country (in the Republic of Ireland).

But it is very complicated. You see, in 1921, when the British finally left this part of the country, they retained the northeast corner. They counted on the whole British majority in Northern Ireland. They had failed to take into account that the nationalists were Catholics, and the majority of pro-British were Protestants. The Catholic population would not practice birth control, and would increase more rapidly than the Protestant population. So after a few years it became obvious

that the Nationalist-Catholic minority would become the majority over a period of time. Now in order to prevent that they then had to resort to discrimination, so that the Nationalist or Catholic population couldn't stay there. Therefore you had notices outside factories "No Catholics employed here." No Catholics could get houses, and so on.

Again, this accented the religious differences, because the notice didn't say "No Nationalists employed here," it said "No Catholics employed here." It was this discrimination that led to revival of violence in the North when the younger generation came along and refused to accept discrimination or leave the country. That is what it took to start all the fighting; demonstrations; demonstrators were beaten and that escalated into violence. Violence caused counter-violence and that is what has been going on ever since for at least 10 or 20 years now.

ADVOCATE: Mr. MacBride, you said near the start of this interview today that the experience of war creates pacifism. Do you think that in certain situations violence in oppressive situations is justified still?

MACBRIDE: I think it is. I think it is a question of degree. I don't think violence in Ireland is justified now. But that is definitely just my opinion. Let me say it that way. I think that violence is justified probably in South Africa. When you have a situation in which the discrimination of a regime is such as to lead to genocide. And it does very nearly to genocide when you think that roughly 40% of the children born, African children born, die before they reach the age of 2. This is a form of genocide, you know? I think you probably are entitled to use force to get justice.

ADVOCATE: Do you think that was the situation in Ireland around the turn of the century?

MACBRIDE: I think it was. I think the British rule here was unacceptable.

ADVOCATE: With Amnesty International looking for protection of prisoners of conscience, do you think that prisoners of violence where the violence is justified should be afforded to be considered political prisoners?

MACBRIDE: No. No. We have drawn a very distinct line there. The prisoner of conscience was a prisoner who is in prison by reason of his religious views or political views, but who had not practiced violence or

advocated violence.¹² I would not have been a prisoner of conscience in the 1920s here. The classical case in Amnesty was the case of a revolutionary leader in South Africa. He was a very fine man. We had adopted him as a prisoner of conscience. At his trial he made a speech, a very fine speech actually, saying that the only way in which Africa could ever secure its liberation was through violence. Then we had to transfer him from that category as a prisoner of conscience to the nonprisoner of conscience category. In the case of political prisoners who advocate violence we don't look for their release. But we do look out for their treatment. We will protest torture and mistreatment and so on. So that we don't abandon them completely but we don't ask for their release.

ADVOCATE: Does Amnesty International, from your experience throughout the years, have fair access to the media?

MACBRIDE: Yes, on the whole. It has been hard at times, but by and large we have done well.

ADVOCATE: You have long been a proponent of international disarmament. Yet the very years of your advocacy of this goal has seen a rapid increase in arms throughout the world. Do you think that disarmament today is a hopeless cause?

MACBRIDE: Well, if it is, it is the end of the world. We will have World War III, which would be a nuclear war. I think a nuclear war nowadays will inevitably lead to the end of the human race. Certainly the end of the human race as we know it. On both sides the aim on the first strike is the killing off of 20% of the civilian population. I don't think that either side really knows how many they will kill on the first strike. It could be 20%, it could be 50%, it could be 60%. Quite apart from the number

they kill on the first strike, there will be a genetic effect on the rest of the world population. So that if 20%, 30%, 40% of the human race survives, I think that the percentage that does survive, will suffer from genetic defects which would probably mean deformity, mental defectiveness and so on...

ADVOCATE: What is the answer? What can we do about it? Armament seems to have no relationship to political views. Everyone is doing it. How are we going to get the human race to stop it?

MACBRIDE: The leaders of the post-war period, all the leaders from 1945 to 1961, really did a tremendous lot of work on this. They lived through World War II, and they realized much more forcibly than we realize now what a nuclear war would do because it was still too close to Hiroshima and Nagasaki, and to the wiping out of civilians by air raids, and they really came to two main conclusions. One of the causes of the war was the denial of human rights. The other was that the only way of avoiding another world war was by achieving general and complete disarmament. They worked from 1945 right up to 1961 on drafting treaties for general and complete disarmament. In 1961 they pretty well reached an agreement. The Soviets and the United States both had draft treaties providing for general and complete disarmament. It was unanimously agreed that the aim should be to disarm to the extent where no country would have any nuclear weapons, and where they would only have sufficient conventional arms as would be necessary to maintain internal order. This would have to be under international supervision. And this was worked out in great detail, and finally in 1961 the aim was to achieve this general and complete disarmament to be completed in nine years. Then all

The notices didn't say "No Nationalists employed here," it said "No Catholics employed here." It was this discrimination that led to revival of violence in the North when the younger generation came along and refused to accept discrimination or leave the country.

of this suddenly vanished in 1962 when the Cold War started again. Cuba. The arms race developed more and more and more. There I lay a good deal of blame on the industrial-military complex. In seeing this (President Dwight) Eisenhower was very far-sighted. He saw that, and warned against it. Then also I think as a result of the industrial-military complex there were auxiliary wars. The industrial-military complex made its living off these wars.

ADVOCATE: Do you feel that the United National should play a greater role in the area of disarmament?

MACBRIDE: Yes, a much greater role. But it is very difficult to convince governments. More than half the government in the world have dictatorships. Most of them are military dictatorships. There are now 154 states in the United Nations; of these there are only about thirty that are really democratic states. The rest of them are dictatorships and many of them are military dictatorships. Among the democratic states, unfortunately, are the biggest arms merchants. This includes the United States, Britain, France, and Germany. They sell arms all over the world.

ADVOCATE: In accepting the Nobel Peace Prize in 1974 you stated that the sign post just ahead of us is one of oblivion. You expressed a feeling of despair because of the increased violence, brutality and increasing armament. In the six years that have intervened since that speech do you see any signs for hope?

MACBRIDE: No. No. On the disarmament front the only thing that has happened has been the special session of General Assembly, which was two years ago, which repeated word for word what had been said in 1961, namely that the only hope of avoiding a third world war, which would be a nuclear war, was through complete disarmament. Having said that, nothing else was done. There were high sounding platitudes and recommendations, but the arms race is going on unabated, probably at a faster rate than even before. We now have a situation in which there is an overkill capacity of at least a factor of 20. Arms that can never, never be used.

ADVOCATE: Technically speaking, how could disarmament occur?

MACBRIDE: It is not so difficult. It was all worked out in 1961. You have to have a treaty for general and complete disarmament. You have to find what the objective is. The objective defined in 1961, namely the elimination in every country of all arms in excess of those required to maintain internal peace. You have to have some form of peace-keeping. An army employed by the United Nations. The point of disagreement between the United States and Russia in 1961 and 1962 was not if we need such an army but how it should be controlled. The United States' view was that it should be controlled by the United Nations completely and should be a United Nations' army as such. The Russians' attitude was that it should consist of contingents from different countries as the present peacekeeping forces it controls. A small difference which could be negotiated. But there was complete agreement on the rest of it. Then you work out a reduction of armaments year by year within a nine year period. Now I think it would take a minimum of twenty years to achieve it. But it even might take more. Then you set targets for each country. You would need an awful lot of work, you know. There would have to be an annual reduction in armaments every year. First of all, stop all research and development of new weapons. From there then you go to the elimination of nuclear weapons. Step by step so as to maintain parity while doing this.

ADVOCATE: Do you think that the Soviet and American economies could hold up under such reduction?

MACBRIDE: That's one of the problems, of course. No problem for the Soviets. They can just pull the lever. To them this is not a real problem. For them it would mean an increase in their standard of living of some colossal amount overnight, because they would turn over their arms production to consumer goods, tractors and so on. It would present tremendous problems in the United States and in the Western countries because they can't pull the lever and switch from one economy to the other. So it would need an adjusting period during which the arms industries would have to be switched to production of other goods, equipment and so on. But they have had to do

that in the common market in Europe for instance, in regard to coal mining and production of steel. It is possible to do it, and various schemes have been worked out. Putting it simply, this would all be much easier than waging a war, in the end.

ADVOCATE: In the many things you have done with international law, what probably is your most satisfying accomplishment?

MACBRIDE: I think having the European Convention adopted. We could never get it done today. That was a good period, 1948. As I said before, the leaders of that period, people like Eleanor Roosevelt, Robert Schuman, they were very good leaders in the world at that period and were determined to avoid a war, and determined to protect human rights.

ADVOCATE: Was it a post-war atmosphere that developed those leaders or was it simply timing that allowed that sort of negotiation? Without having a post-war period available today on an international level, is that sort of negotiation feasible?

MACBRIDE: Of course not. I think the further you get away from a war the more likely you are to have a war. The horrors of war. Then memories get dim. They are more likely to drift into war.

ADVOCATE: Why do you think the Convention could not be adopted today?

MACBRIDE: I think governments are afraid of human rights. Governments are afraid of anything that limits their power. Strangely enough, in 1948, our main problem was with Sweden. Sweden was the most conservative of the governments I had to deal with in Europe. That is quite a lesson. The foreign minister of Sweden, he was a lawyer, and he had a little of the same viewpoint as the Russians and the German lawyers. (He thought) that no individual could have rights under international law. This was an infringement on national sovereignty.

Nowadays I think that governments are always slow to give any rights to individuals. I think public opinion might be more advanced. Sweden would not be a problem today. Sweden would be in the forefront of protection of human rights. Funny how positions change. France, which

was very much in favor then of human rights, would take a different view.

ADVOCATE: Accepting the Lenin Peace Prize in 1977 it was noted that Lenin himself had cited the 1916 Easter Rebellion in Ireland as the spark which began the overthrowing of Imperialism in the world. Yet since the advent of socialism we still have war, and we still have Imperialism, we still have Colonialism. Do you think that socialism has by and large lost in its original goals?

MACBRIDE: No. I think that the whole world has drifted toward socialism, and drifted into socialism without ever appreciating the alternative. Now, you take this country (Ireland) for instance, which has a socialist government. You have electricity nationalized; transport is nationalized; most things are nationalized. I think that inevitably the development of industrialization and

modern techniques will force the world towards socialization, as distinct from communism. I think in England many things are nationalized too, and I think that trend will continue. I think probably in the next 25 years you will have to legislate radically to preserve employment and to distribute employment. I think the silicone and chip revolution is going to lead to massive unemployment. Rather than face massive unemployment the states in the Western world will be forced to reduce hours of employment from 8 hours to four hours a day, and maybe working only three days a week. We will be having three month holidays. I think the alternative would be either that or a massive segment of your population will be unemployed. This would be bad for several reasons. So I think that these trends, mechanization, electronics and all that is going to force the states towards socialism.

ADVOCATE: There was an article

in the *Washington Post* a few years ago, which was widely reprinted throughout the United States. The article criticized you, Archbishop Dom Helder Camara of Brazil and former President Echeverria of Mexico. It said that the three of you were placing too much burden for the arms race on the capitalist countries and not enough on the socialist countries. Do you think that criticism is unfair?

MACBRIDE: I think so, yes. As I said before I think that one of the factors in the arms race, not the only one, one of the factors in the arms race undoubtedly is the industrialized republics. You being Americans would know the extent of the arms lobby. I imagine that the arms lobby is an important force in the formation of American policy. The arms lobby doesn't want disarmament. This would be suicide from their own point of view. So it is an important factor. I don't think that there is an arms lobby



in the socialist states. I have never determined to what extent is this a factor that promotes the arms race in the West. In other words, far from the influence of the industrial-military complex, that depends upon the arms race to promote the sale of arms, to what extent is the fact that the standard of living in the Soviet Union would benefit immensely without any arms race? Is this a factor which prevents disarmament? Is this one of the factors while discussing disarmament around the conference table at the United Nations or anywhere else? Is there a feeling among some of the leaders in the West saying that if we had disarmament this would mean that the Russians would double their standard of living and therefore would acquire a better influence? Or do they not think that far? But if they would analyze the situation they would see what we mean. I don't accuse them of thinking that far. Of course this undoubtedly would be one of the results of the end in the arms race. I think the Russians see that. I think that is more reason they are willing to go farther in disarmament than the West is.

ADVOCATE: Do you think they are? Do you think the Soviet Union is more willing to consider disarmament? I haven't seen that.

MACBRIDE: They are in their own kind of way, yes. Which is a very clumsy way very often. But I think they would agree to putting a complete end to all the development of new arms. They said they would do it several times. Because they economize an awful lot. Money spent on the development of weapons is colossal on both sides. That is a danger factor, because it destabilizes every new weapon that comes on the drawing boards. It is a further destabilizing element in the question of disarmament.

ADVOCATE: When you were selected as the first person ever to be awarded the American Medal of Justice, the citation thanked you on behalf of lawyers throughout the United States for your participation in

the advancement of liberty under the rule of law. Yet in our country lawyers are not generally perceived as being in the forefront of these movements in which you are interested.

MACBRIDE: I thought that you had quite a lot of lawyers who were interested in human rights and in the promotion of disarmament in the world.

ADVOCATE: I am talking about public perceptions though. Do you think the profession generally has a poor reputation for involvement in these matters?

MACBRIDE: No. You have a more domestic approach to these problems, more than we have. You are a larger country. I think that your lawyers in the Watergate period, the Vietnam War period, and all that, gave very good leadership. Your lawyers are leaders in civil rights. They fought cases very well. Your courts are good too.

ADVOCATE: One of the remarkable things about your career is that you continued to practice law even while involved in so many other things. Would you share with us some of the more interesting cases which you had over the years?

MACBRIDE: One of the cases which gave me the most satisfaction, and was the most interesting, and was constitutionally based, was that setting aside the election laws as unconstitutional. Of course there had been certain amounts of gerrymandering. That is an American term. You had one constituency vote count much more than the next one.

ADVOCATE: Mr. Gerry, for whom the word was coined, was from Boston.

MACBRIDE: That's right. I know that because I used this in our Supreme Court in arguing the case. I was very proud of myself. I got a map made of each constituency. We had transparencies showing the changes in population over 25 years. In the end you had to win the case, because you couldn't lose it.

ADVOCATE: How about criminal

cases? You have long been an opponent of capital punishment.

MACBRIDE: Yes, I am very much opposed to capital punishment. I have had many capital cases. I had one case in particular where my client was convicted and hanged and I was quite certain he was innocent. But there was nothing I could do about it.

ADVOCATE: Do you think the jury system should be set aside?

MACBRIDE: No. No. With all its defects I would prefer a jury.

ADVOCATE: If you were practicing in Northern Ireland today would you challenge the authority of the Diplock Courts, which do not use juries?

MACBRIDE: Yes, I would.

ADVOCATE: Isn't the Green Street Court where they hold the special cases here in Dublin?

MACBRIDE: The Special Criminal Court which sits three judges.

ADVOCATE: Is that a court of no-appeal?

MACBRIDE: There is a court of criminal appeal. You can appeal.

ADVOCATE: But that is not a jury trial?

MACBRIDE: No, no jury.

ADVOCATE: Do you think those procedures are illegal?

MACBRIDE: I have argued that they were. My argument was not accepted. I can see situations in which, probably government *may be* entitled to depart from the ordinary safeguards, but again I think this is too easily abused. This is being abused at the moment actually because these courts are being used in completely inappropriate cases. Whenever it is convenient for the right of the public prosecution, you can send anyone to the special criminal court. A number of cases have been done merely to relieve the pressure on the jury court.

ADVOCATE: So that you don't think that the climate right now really calls for another special type of court?

MACBRIDE: I think one could do without it. But again, there is always the tendency on the part of the government to want to keep all the powers it can.

ADVOCATE: Should a government have a right by law to impose any restrictions on what is published or what is broadcast? In the United States, the governments of both Great Britain and the Republic of Ireland have been criticized for sometimes denying access to public broadcast

I think governments are afraid of human rights. Governments are afraid of anything that limits their power.

media to individuals whose views are contrary to those of the government. Do you think that is right?

MACBRIDE: I would adopt the formula used in the Covenant on Human Rights. The provision on freedom of information. Everyone should have the right to freedom of expression. This should include freedom to seek and impart information and ideas of all kinds, regardless of contents, either orally or in writing or in print, in the form of art, or through any other media of its choice.

(The right of freedom of information) carries with it special duties and responsibilities, and it may therefore be subject to certain restrictions but these should only be such as are provided by law, and are necessary for the rights and reputation of others, for the protections of national security, or public order, or public health or morals.

ADVOCATE: One aspect of your work which we have not discussed is your tenure as Secretary General of the International Commission of Jurists from 1963 to 1971. Perhaps the work of the Commission is not as well-known to American lawyers as it should be. Would you like to take this opportunity to discuss it?

MACBRIDE: I think it is a very, very useful work around the world. It isn't too well-known in America. But again there I think you see a little bit of the same thing as you would with the freedom of press. You have a very good Constitution, very strong courts, and all the laws are applied very effectively. You have a very good record on the law. Certainly since World War II I think you have a very good record.

ADVOCATE: What is the primary function of the Commission of Jurists?

MACBRIDE: Promotion of the rule of law throughout the world and assisting in the application of the rule of law in countries wherever they feel the need to advice or help. Also, exposing injustices wherever injustices take place.

ADVOCATE: Do you think there should be an investigation of a former government which has been deposed by a revolution through an international tribunal? Do you think that is an appropriate use of an international tribunal?

MACBRIDE: I think so. I thought

I think that your lawyers in the Watergate period, the Vietnam War period, and all that, gave very good leadership. Your lawyers are leaders in civil rights. They fought cases very well. Your courts are good too.

this before last year. This was before the Iranian business arose. There had been many violations of human rights in many different areas of the world. We have had about two million people massacred in Cambodia. We've had at least a half-million killed in Uganda. We've had all the massacres in the Central African Empire. We've had massacres in Equatorial Guinea. You've had massacres in Chile, not so numerous, but in fact many people were killed. You have the same thing in the Argentines. You have 10,000 people in the Argentine who have disappeared; they perished, they were killed. They no longer announce them, just kidnap people and kill them. This is going on. There is an escalation in the quantum of killings and massacres and torture in the world.

Now that can be stopped by trying the people who cause it. The same principle as Nuremberg. When the Nuremberg Court was set up it was intended actually to be a permanent institution. Originally it had many defects. It was of course set up by the victors to try the vanquished. It was *ex post facto* legislation. Then the General Assembly asked the Law Commission to elaborate and set principles for the establishment of a permanent jurisdiction to deal with such cases. They became known as the Nuremberg Principles. Fourteen principles for the setting up of such a court and such a jurisdiction...

ADVOCATE: How do you deal with the objection that you will investigate only losers, only the vanquished, as in the case of the Nazis?

MACBRIDE: Well, this should be a permanently established court. This is in the tradition of the Hague Court. It couldn't be set up *ad hoc* to deal with the vanquished. It would presumably be an impartial tribunal, or as impartial as you could make it. But in truth, it could deal only with the vanquished. You would have them off

their thrones to bring them before it. But I think at some point, with a sanction of this kind, it could work.

PHOTOGRAPHER: Thank you, I hope I didn't disturb you.

MACBRIDE: Are you leaving us — I hope we didn't break your camera.

PHOTOGRAPHER: It was very interesting.

MACBRIDE: She certainly worked very hard, didn't she?...

ADVOCATE: A trend in the United States seems to be to move toward uniform sentencing...I wonder what your views are?

MACBRIDE: This is a universal problem. I am the chairman of a commission here that is investigating just that and penal reform here. Undoubtedly you find a higher percentage of offences among the deprived section of the population. This is a tendency then, to increase sentences as people come back. But it's always from the deprived segment of the population. . .

ADVOCATE: Does a man's guilt or innocence have any bearing on whether you accept a case or not?

MACBRIDE: No. No. We have a rule here providing that it should not. We have a rule, too, that you should never refuse to take on a criminal case.

ADVOCATE: We don't have this rule in the U.S. American lawyers are free to reject a case.

MACBRIDE: Well, in practice it doesn't work very well here. A lawyer can come up with some good reason, saying "I'm too busy to take this on."

ADVOCATE: Do you ever try to determine for yourself if your clients are guilty or innocent?

MACBRIDE: I avoid doing that. Once you know the client is guilty you have problems.

I did have one case, where the Junior Counsel asked an important question which produced an admission of guilt. It was careless on my part, I suppose. This case had a lot of

problems. Not for me, but for my junior assistant. It was a murder case, and the junior said we should get off of the case once he told us he was guilty. I said no because if we got out of the case at this stage then they would assume that there was some reason and it would have been prejudicial to the client. He had religious scruples about it. So I put it to him that it was my responsibility and not his. The religious attitude was that you shouldn't put your client into the box to commit perjury. I quarreled with that. We had long arguments about that. I had to defend him the best way I can. If that entails putting him into the box, then I would put him into the box.

ADVOCATE: Would you favor, then, mandatory sentencing, with no discretion in the judge?

MACBRIDE: No, I think the discretion of the judge is good. But I think there should be a sentencing policy. But I don't know who would develop the policy, because I don't have an awful lot of confidence in the collective wisdom of judges. Individual judges are good.

But, of course, in their individual capacity their discretion isn't too bad in passing sentence. You get an individual judge who favors harsh sentencing, but by and large they are very humane and sensible... But you get them meeting collectively to decide something and they become terribly conservative and power conscious.

ADVOCATE: A subject of great dispute among American lawyers right now is whether or not you can use perjured testimony when you know it is perjured. Our Code of Professional Responsibility prohibits the lawyer from putting a witness on the stand when you know he is going to commit perjury.

MACBRIDE: Yes. But I think that in the capital case I would have no scruples to put my client into the box even if I suspected (perjury).

ADVOCATE: Do you feel that he has a right to state his story, and it is up to the finder of fact to determine whether he committed perjury?

MACBRIDE: Yes, that's right. And I feel very strongly about capital punishment.

ADVOCATE: Many Americans argue that capital punishment operates as a deterrent to crime. What are your views on this?

MACBRIDE: No it doesn't. It has been pretty well established statistically that where capital punishment has been done away with, capital cases have not increased. You see a percentage of those people who commit crimes are mentally deranged to some extent, and are mentally unbalanced, and I have had clients who certainly rejoiced in having the attention focused on them in a major criminal trial. The whole atmosphere of a murder trial and capital punishment has a strange kind of attraction. I don't know if it is the same in America, if you get public attention in such major trials. It is a kind of morbid interest.

ADVOCATE: Going back to Iran. Hours earlier, when we started talking about it, I believe you mentioned that the U.S. should not have agreed to the formation of a Commission without an understanding that it should be linked with the release of the hostages. It seems that there was at least an implicit understanding on the U.S. that there would be a linkage between the Commission and the release of the hostages. Do you think the Commission should proceed now that it is clear that there is no link?

MACBRIDE: It was mismanaged. I got the discussions going. Let me show you the paper which was accepted. Now that is an overstatement. I can't say that the Iranians said "we accept" this. But they certainly had no objection to it. This is all part of verbal discussions, negotiations that went on in two sets of meetings I had with two separate ministers. I reduced it to writing, and put it in black and white. In that I had made a condition (that the hostages be released). I knew first of all the need for an inquiry, a commission of inquiry, and what its terms of reference should be. Then also the question of the recouping of the assets of the Shah around the world. But then I put in paragraph 4 of the proposal that it would be impossible to undertake any inquiry until the hostages were released or unless the Iranians agreed to release the hostages to the Commission so the Commission could release them on that date. I got agreement on that. I cannot understand to this day how they departed from that. But I gather that (U.N. Secretary-General Kurt Waldheim did not get anything in

writing from them. They had loose telephone conversations in broken English. Nothing was agreed, and then both sides began to set out their own standards.

ADVOCATE: Do you think something should have been done from the point of the U.S. in stopping the Commission at this point?

MACBRIDE: First of all I think the U.S. had very little to do with setting up the Commission. It was a request by Iran to investigate the internal matters in Iran. It had little to do with the U.S. Let me give you a copy of the proposal.

ADVOCATE: Do you want me to read it for you? This is the proposal to the ultimate resolution of the Iranian problems with regard to the release of the hostages and the setting up of an International Commission of Enquiry. Paragraph 4 provides:

"It was made clear that it would not be possible to set up the International Commission of Enquiry proposed above unless the hostages were first released, or that there was agreement that they should be released by the Commission at a date to be fixed by the Commission at its first meeting. Their release could be made conditional upon an undertaking to appear before the Commission, if required, to give evidence by the Commission. The case against the Shah and his administration should be presented by a team of lawyers appointed by the Iranian Government. Full facilities should be made available to the Shah and other persons named in the course of the proceedings, as well as the United States, to be legally represented at the Commission. The sittings of the Commission should be open to the press.

It was emphasized that a highly competent and experienced secretariat would be necessary to service the Commission. Ample facilities for simultaneous interpretation and for translation of documents would be essential."

MACBRIDE: They virtually agreed to this. I gave them copies of this and they never quarreled with it. They said, "yes, that's fine."

ADVOCATE: When you refer to them who are you talking about?

MACBRIDE: President (Abolhassan)



Bani-Sadr, who was the Minister of Foreign Affairs. The present Minister of Foreign Affairs, (Sadegh) Ghotbzadeh.

ADVOCATE: Now is there someone on the U.S. side also that you were dealing with?

MACBRIDE: Yes, (Secretary of State) Vance, on the U.S. side. I kept the U.S. informed at all times. And (Secretary-General) Waldheim. I can't say the U.S. accepted, but the following was discussed:

1. The appointment of an International Commission of Enquiry with the following functions:

(a) To investigate the extent to which there is reason to believe that acts committed by, or on behalf of, the Shah and in his administration during the period 1953-1979 amounted to:

Well, Waldheim didn't like that reference to the Nuremberg tribunal. I think Vance was a bit worried about it too. I deliberately put in the Nuremberg-type because Nuremberg-type is well-defined, and there are fourteen Nuremberg principles already established that would save an awful lot of messing around afterwards by saying what is the jurisdiction of this tribunal. It is better to have something that already had certain jurisprudence to it that could be applied. But I said if you don't like that knock that off. Here I proposed to Vance, and I said from the point of view of the United States you should welcome the formation of an international tribunal because the alternative to that would be that he (the Shah) will be tried in accordance with what they call Islamic justice. If I were the Shah I would

The Iranians were happy with this. At first they wanted a grand jury to try him. I said there will be no trial. All this Commission could do was to advise whether there was evidence which would justify the setting up of a properly constituted tribunal. But this Commission won't try him. I put in a clause just to clarify that it would not be the function of the Commission to adjudicate upon the guilt or innocence of the Shah or any other persons, but it would be its function to determine whether circumstances justify the setting up of a tribunal to try him. The principles of international law recognized in the Nuremberg tribunal, and unanimously voted by the General Assembly on the 11th of December, 1946 and approved by the United Nations International Law Commission in accordance with UN resolutions, should be absorbed in so far as applicable. Regard should also be had toward the United Nations conventions and resolutions related to genocide... Certainly I would hesitate to extradite anyone to the Islamic courts in Iran, with all that has happened...

It would be quite improper for this Commission to try the United States, the C.I.A., or anybody else. But if it did find that there were links, it could recommend to the government of the United States that there were things to be investigated so that you wouldn't have the United States on trial. The worst that could happen from the United States point of view is a recommendation that the U.S. should set up a Congressional inquiry to investigate them.

ADVOCATE: Do you think that there should be a Congressional inquiry?

MACBRIDE: I think so, and I think there will be one sooner or later. As soon as the hostages are out there will be a Congressional inquiry on the whole of this. But I wanted to put it out of bounds so far as the Commission is concerned. There should not be a trial in any sense... We wanted to protect the sovereignty of the United States in this. Vance understood that. Waldheim didn't understand that.

It was made clear that it would not be possible to set up the international inquiry unless the hostages were first released. Either that, or that it was agreed they should be released through the Commission at a date to be fixed

Waldheim didn't like that reference to the Nuremberg tribunal. I think Vance was a bit worried about it too. I deliberately put in the Nuremberg-type because Nuremberg-type is well-defined, and there are 14 Nuremberg principles already established that would save an awful lot of messing around afterwards.

- (i) Violations of human rights as defined by the Universal Declaration of Human Rights and the U.N. International Covenants on Human Rights.
- (ii) The imposition of torture or other inhumane or degrading treatment of human beings.
- (iii) The murder, extermination, maiming, enslavement of human beings.
- (iv) The plundering or misappropriation of public property, including acts amounting to fraud or embezzlement.

(b) In the event of the commission coming to the conclusion that there are grounds for putting the Shah and/or any members of his administration, agents or family on trial, to advise on the steps to be taken to secure the setting up of a "Nuremberg-type" tribunal by the United Nations to try the Shah and his associates.

prefer to be tried by an international tribunal at the Hague than to be tried in Iran by the Ayatullahs. And from the point of view of the U.S. it would be easier for you to agree to have him handed over to an international court at the Hague for trial than to have him handed back to Islamic justice.

ADVOCATE: The thing that bothers me is that the only reason an initial inquiry would be set up was because of the taking of the hostages. Now why should someone like Idi Amin not be subject to an international inquiry?

MACBRIDE: I quite agree with you. This was the objection that Waldheim had and the UN officials. They said, "My God, the same thing would happen to Idi Amin and the same thing could happen to several people." They said, "this would create endless problems for us." I said, "Well so be it, and why not?"



Sean MacBride, with Theodore I. Koskoff, President of the Association of Trial Lawyers of America, and Mrs. Koskoff, after the 1980 Suffolk University Law School Commencement.

by the Commission at its first meeting. Their release could be made conditional on an undertaking to appear before the Commission if required to give evidence to the Commission. And there we had a long argument with the Iranians. They said "well, if they are released they will never appear." They first said "some of these hostages are required as witnesses." I said, "I don't think they will be relevant from what I can see. But supposing that they are relevant, you will have to get the Commission to decide that they are relevant. If the Commission said they are relevant then those hostages required to give evidence could be released on bail, or on the signing of an undertaking that

they would appear before the Commission if required to do so." They said, "Once they are released they will never come back to Tehran." I said, "Of course, they will never come back to Tehran. The Commission could sit in Geneva, or in the Hague, or in New York for that matter. They can give evidence there." They agreed to that...

It was considered that while meetings of the Commission might take place in Tehran, its sittings quite preferably should take place in Paris or Geneva. Waldheim was furious about this. He said they should take place in Geneva, not Paris. There is a certain jealousy between U.N.E.S.C.O. and the U.N. You see, I

was sent there (Tehran) in the first place by U.N.E.S.C.O.—right at the beginning... Waldheim would think about it for six weeks, and nothing would get done...

...Now as I said before, I can't say that anybody said, "I accept this." But this is what we discussed, and this is what they said was acceptable.

ADVOCATE: If an order comes from the Ayatullah, will the students agree (to a release of the hostages)?

MACBRIDE: The students? Well, they are not all students. How old are you? About 25-26? They are your ages and upwards. Up to 40, I would say. Many of them have been people who are organizing against the Shah, both in Iran and outside. They are activists.

They are very conscious that they hold the key to the situation — they have the hostages. They are very conscious of their own power. They have no confidence in some members of the Revolutionary Council. They say they will accept the orders of the Ayatullah, but they never accept them immediately. They released some women, and some Blacks, a while ago. But it took three or four days, and he had to send his son down. They kept him (the Ayatullah) waiting.

ADVOCATE: Did the United States agree to the idea that the hostages would be subject to the Commission's jurisdiction in a witness capacity?...

MACBRIDE: Yes. They didn't object to this, as long as they never had to go back to Iran. That is why I put this clause in that said that the Commission could sit anywhere. I thought that Tehran wasn't the proper atmosphere to have an inquiry like that. Obviously not. They (the Commission) have been given the run-around there.

ADVOCATE: Didn't the United States acquiesce in blackmail by not objecting the formation of the Commission?

MACBRIDE: No I wouldn't have asked, at any stage, the United States to acquiesce formally. This was an effort from Iran. This was an investigation into the affairs of a former government in Iran.

ADVOCATE: But doesn't the U.N. Commission, as it now stands, operate under broader guidelines than the one you proposed? Isn't it inevitable that such a Commission would examine the United States' role in Iran?

MACBRIDE: I think so. But under my guidelines, no.

ADVOCATE: It seems to be just giving into the demands of the militants because they seized the hostages, isn't that so?

MACBRIDE: That is, of course, the vice of any hostage situation. Either you throw your hostages to the wind, and let them all be killed, or you have to allow yourself to be blackmailed.

ADVOCATE: Is not this somewhat analogous to Northern Ireland? It is not likely that the government of Great Britain is going to negotiate the dissolution of the partition (of Ireland) except under the military pressures brought to bear by the Irish Republican Army, is it? Would the British government even be talking about Northern Ireland except for the actions of the Irish Republican Army?

MACBRIDE: Of course not. Of course not. It is the same thing you find in all these revolutionary situations, after all. In Cyprus the British government had to negotiate in the end with Makarios. They put him in jail at first, and then they negotiated with him.

ADVOCATE: Do you think that the British government should withdraw its troops, or set a deadline for the withdrawal of its troops?

MACBRIDE: Yes. Yes. I think they will ultimately.

ADVOCATE: Do you think there will be a united Ireland then?



MacBRIDE: Yes, but it will take time. What is happening in Northern Ireland, and I think this will probably lead to the end of it, is that the I.R.A. and the para-military Protestants are meeting all the time and discussing solutions themselves. Much to the annoyance of both the British government and the Irish government. There will be a ceasefire, and then they will ask the British to withdraw their forces.

ADVOCATE: I detect a certain reluctance to talk about Ireland. What is it that you are afraid of?

MacBRIDE: Yes. I am reluctant to talk about it for two reasons. First I am not involved in politics now, and am reluctant to express views which might make it more difficult for the government than it is now.

Another reason is that about five years ago the British government suggested that three people should be nominated by all sides to act as possible intermediaries. I was one of the three people nominated. Desmond Boal, a Protestant lawyer in Belfast, a very fine man, was another. The British government was to nominate one, but did not. Then the Ulster Protestant para-militaries and the I.R.A. met, and they both agreed to ask Desmond Boal and myself to act. We were asked to ascertain whether we would be prepared to give legal technical advice if they came to the point of reaching a solution. We both said yes. This has never come to a conclusion. We are still regarded as being people who might be asked to act in an intermediary legal capacity. Therefore, I am reluctant to become involved in Northern Ireland in case at some stage I am asked to produce a document of this kind.

ADVOCATE: When we were driving over here some Provo I.R.A. members had gotten upon the facing of one of the downtown buildings, on O'Connell Street.

MacBRIDE: Here, in Dublin? This was in connection with the H-Block¹³ matter?

ADVOCATE: That's right, the Garda¹⁴ had come up to remove them. There was quite a crowd.

MacBRIDE: I have avoided this matter. I have not gotten mixed up in this question. As a member of Amnesty I don't believe in giving political prisoners special status. I

believe that all prisoners should be treated humanely. I don't think one category of prisoners should be entitled to better treatment than another category of prisoners. I am not enthusiastic about I.R.A. prisoners seeking a better status than non-I.R.A. prisoners.

ADVOCATE: Does the Sinn Fein political party approve of Provo I.R.A. activities?

MacBRIDE: Yes. This raises a very interesting point at the present moment. Under Irish government regulations, enacted under the Radio and Television Act, the Radio and T.V. people are forbidden from allowing any member of the I.R.A. or any members of Sinn Fein, to give interviews or to be shown on T.V., or to be heard on the radio.

But the Chairman of the Galway County Council is a member of Sinn Fein. Is it constitutional for the radio and television station to prevent the Chairman of the County Council (from being interviewed)? There are about twenty other Sinn Fein members who are also members of elected bodies, who are also cut off from access to the radio.

ADVOCATE: I gather that under the proposals of your (U.N.E.S.C.O.) Commission that this would not be permissible?

MacBRIDE: No. No. That's right. Actually I hadn't thought of that.

ADVOCATE: Do you think that Ireland will become more industrialized in the future?

MacBRIDE: I hope not. I am not happy with the industrialization which has taken place. I think it has been a little artificial. I think we should have limited ourselves to industry based on the raw materials we can produce ourselves. In other words, food processing, and so forth. Some of the industries were put here on the basis that labor is cheaper than in England. This is insulting to Irish workers.

ADVOCATE: Nuclear power has come to Ireland. What is your attitude about this?

MacBRIDE: I am opposed to it, very strongly. First, we don't know enough about nuclear power. Second, I don't think it is economical. Here we should concentrate much more on the utilization of winds, tides and waves. (The government) has done very little... I am the President of the

Anti-Nuclear Association.

ADVOCATE: Hasn't industrialization hurt fishing here?

MacBRIDE: Yes. You know, it is one of the paradoxes here that we are an island, and we should be a fishing people. We are not. We don't eat fish, and we don't like fish. As Catholics, I guess we think that fish is some kind of penance on Fridays. Fish can be beautiful, but we Irish really don't like it.

ADVOCATE: Speaking of Catholics brings us back again to the role of religion in Ireland. Is there hope for the unification of Ireland as long as the Catholic religion holds such an important place in the life of the Republic?

MacBRIDE: We would not tolerate a priest or a bishop in politics. They tried to get into politics, but failed. Now, having said that, we must recognize that most of the people here are Catholic. They reflect the attitudes of the Catholic Church. On the other hand, as against that, the one sure way to get elected politically in Ireland is to fight with the bishops. Fight with the bishops and you will always get elected.

ADVOCATE: Didn't you have quite a fight with the bishops a few decades ago?

MacBRIDE: Oh yes. I have been excommunicated at least twice.

ADVOCATE: Why were you excommunicated?

MacBRIDE: Anyone who fought against the British before 1921 was excommunicated by the bishops. All the political leaders in Ireland at some stage or another have been excommunicated. And they have all denounced the bishops at some stage or other. The common idea of the Church in this country is quite a false one.

ADVOCATE: In a country which is 95% Catholic do you have constitutional problems with separation of church and state?

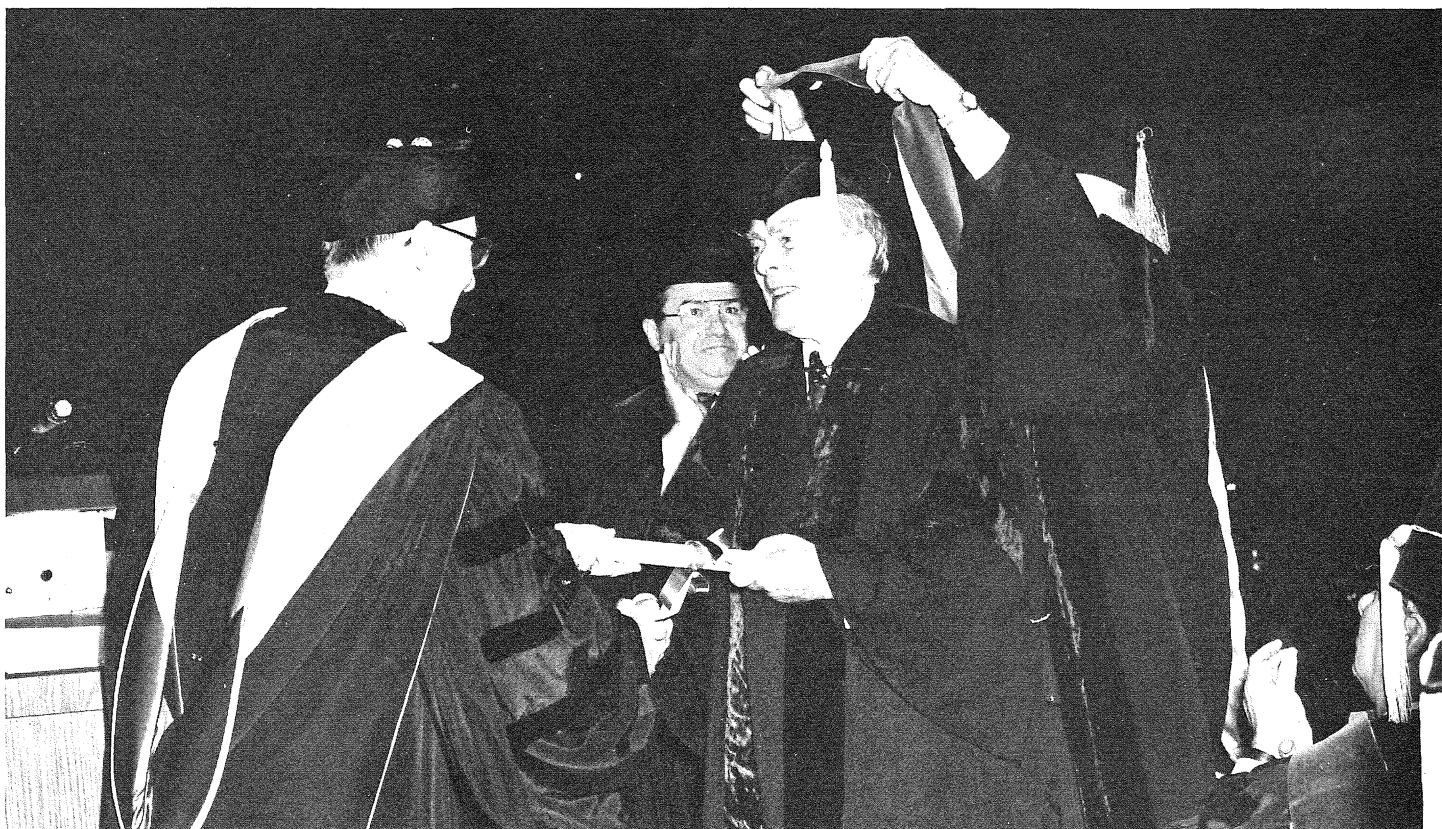
MacBRIDE: No.

ADVOCATE: Then how about access to abortion and contraception?

MacBRIDE: Contraception? There is one case on contraception here which I handled in the Supreme Court. It established the right of the people to get contraceptives. The case involved no church interference. I won the case. I don't think the bishops



Sean MacBride talking with Jeanne Hession, Vice-Chairperson of the Board of Trustees of Suffolk University (left) and Thomas Fulham, President of Suffolk University, prior to the 1980 Law School Commencement.



Sean MacBride is honored by Suffolk University Law School at the 1980 Commencement. Presenting Mr. MacBride with an honorary degree is President Thomas Fulham. In the center is Vincent A. Fulmer, Chairman of the Board of Trustees.

were pleased about it, but they never attacked the decision, the court, or me for it. They are still against contraception. In a way it was a case I could not lose.

ADVOCATE: That sounds like a lawyer's ideal case.

MACBRIDE: An ideal case, yes. It was the case of a woman who had, I think, five children. Her doctor said it would injure her life if she had another child. She ordered contraceptives. The contraceptives were impounded by the Post Office. It was a perfect case. All the medical evidence showed that her life was in danger.

ADVOCATE: Was the decision, then, limited to the proposition that contraceptives are allowed only when the woman's life would be endangered by pregnancy?

MACBRIDE: No. The decision did not establish the right to sell contraceptives publicly. But it did establish the right of the people to obtain contraceptives . . . Well it looks like we are ready for dinner now.

FOOTNOTES:

1. Mr. MacBride is referring to Art. 15 (1) of the Convention, which provides:
In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. Council of Europe, European Court of Human Rights, Series B. *Pleadings, Oral Arguments, Documents*, 1960-61, "Lawless" Case, Strasbourg (1961).
3. Mr. MacBride is here referring to the decision in Court H.R., *Ireland v. United Kingdom*, Jan., 1978, Series A, No. 25.
4. Mr. MacBride is referring to the report of the International Commission for the Study of Communications Problems. He is the Chairman of this U.N.E.S.C.O. Commission.
5. Jawaharlal Nehru, a leading figure in the Indian independence movement, was the first Prime Minister of the Republic of India.
6. Archbishop Makarios was the first President of Cyprus.
7. Mr. MacBride is referring to Art. 15(3) of the Convention, which provides:
Any High Contracting Party availing

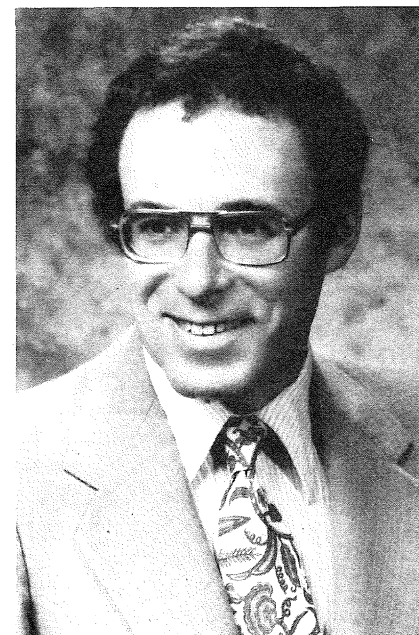
itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

8. Eamon de Valera fought with MacBride's father in the Irish Easter Rebellion of 1916. He was condemned to death, but was spared because he was a citizen of the United States. He later served as President of the Irish Republic, but refused to support the Treaty of 1922 creating the Irish Free State. However, he later joined the Irish government, serving both as Prime Minister and President.
9. Michael Collins was the leader of the Irish Republican Army between 1918 and 1922. He organized and lead the forces which defeated the British Army in that period. MacBride was one of his officers, but broke with Collins over the Treaty which Collins had negotiated with England, bringing the Irish Free State into existence.
10. Lester Pearson was the Prime Minister of Canada. He was extremely active in international human rights movements, and won the Nobel Peace Prize.
11. Kwame Nkrumah was one of the founders of modern Africa. He lead the independence movement in Ghana, and became the first President of that country after independence. He also was active in the founding of the Association of African Unity.
12. Amnesty International makes the following distinctions. Prisoners of conscience are men and women detained anywhere for their beliefs, color, sex, ethnic origin, language or religion, provided they have neither used nor advocated violence. Amnesty International opposes cruel, inhumane or degrading treatment or punishment of all prisoners without reservation. Amnesty International Report, 1978.
13. The "H-Blocks" refers to the men's prison at Long Kesh, and is sometimes used with reference to the women's prison at Armagh. These are prisons maintained by the English government in Northern Ireland. Prisoners are said to be "on the blanket". This means they refuse to wear prison clothing because they protest their classification as ordinary "criminals". They demand to be treated as prisoners of war or political prisoners.
14. The Garda are the police of the Republic of Ireland.

THE ADVOCATE EXPRESSES ITS SINCERE THANKS TO BRIAN MURPHY AND PATRICIA MURPHY OF DUBLIN, IRELAND, TO SEAN MacBRIDE'S SECRETARY, CAITRIONA LAWLOR, AND TO DEAN SARGENT, FOR THEIR GRACIOUS ASSISTANCE IN HELPING US PLAN AND COMPLETE THIS INTERVIEW.



FACULTY NOTES



On August 1, 1980 Dr. Daniel H. Perlman was elected the seventh President of Suffolk University. A Presidential Search Committee, consisting of students, alumni, faculty and trustees, recommended Dr. Perlman to the Board of Trustees. Dr. Perlman holds Bachelors Degrees from Shimer College and the University of Chicago. He also received his M.A. and his Ph.D. from the University of Chicago. He is currently Vice President for Administration of Roosevelt University in Chicago.

Required Reading.

Volume 374 of the Massachusetts Reports are in the process of being delivered to our automatic delivery list. If you are not on our list and would like a copy please call or write.

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TECHNOLAWYER:

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Edmund G. Hamann is the College Librarian at Suffolk University.

Donald F. Mikes is Director of the Instruction Materials Center.



Edward J. Bander is the Law Librarian at Suffolk University.



Edwin L. Wallace is the Managing Editor of The Advocate and a third year day student.

by Edward J. Bander
Edmund G. Hamann
Donald F. Mikes
Edwin L. Wallace

ITEM: "Picturephones will take the place of human contact in the law office. Thick, cumbersome casebooks will be summarized in information banks and data will be retrieved at the touch of a button." *Washington Post*, June 11, 1979, p. C1.

ITEM: "Forget about pencils and scratch pads, and get that cursor moving across your video display terminal . . . Scanners which can read typed letters and store them on magnetic tapes or discs . . . (an) attache case outfit with viewer, which allows the weary executive to carry microfiche home and project information on a curved screen built into its cover." *Washington Post*, May 3, 1979, P. D1.

ITEM: "Sooner or later some wit will suggest that if computers are qualified to appear in court as litigants, they should also be allowed to sit on the bench . . ." Ewing, Is It Time For A Computer Court? *Juris Doctor*, December 1977, p. 18 at 26.

ITEM: "They'll get cheaper and tinier, and they may even start talking back to you." *Boston Globe*, January 6, 1980, p.A2.

If the above items have the ring of a Buck Rogers comic strip or a sci-fi scenario, and you are a practitioner of law, you had best read this article. Computers have peacefully invaded the legal profession, and the lawyer, from the solo practitioner to associate in a large firm, neglects technological application to the law at his peril. While these items may seem fanciful, the following will explain what is commonplace to the Suffolk University law student.

I. Computers and Word Processors

A. Computers

The first step in establishing computerized legal research is the creation of a data bank. This involves converting the

information already in printed form to a machine-readable format which can be stored.

A considerable investment of time, labor and money is required to assimilate the tremendous volume of existing data and to keep abreast of current material.

A format must be established that allows a programmer to retrieve the material in the data bank. This may be accomplished by installing a terminal consisting of a cathode ray tube (CRT) (i.e., a television screen), a keyboard (similar to a typewriter) and a printer. The terminal is connected by a data transmission line or telephone line to the computer. The programmer uses the keyboard to send a search request to the computer, which will search the data bank for documents that respond to the request and then display the documents on the CRT. A copy of any document can be immediately obtained by using the printer.

The computer has not eliminated the need for a careful analysis of an issue before beginning research. Learning how to frame a search request requires training and practice, and without this training many hours of computer time will be wasted. The suppliers of the different systems also supply manuals, training and retraining. Some suppliers, like LEXIS, have on-line training programs and a number that can be called for assistance. Suffolk University Law School has installed Mead Data Control's LEXIS system and offers training and an opportunity to use LEXIS on school-related research projects. Although the commercially available systems are expensive, more systems are surfacing daily in law firms and law schools across the country. They appear to be used more frequently by large law firms, or when several small-to-medium-size firms pool their resources and cooperatively contract for one of the systems.

West Publishing Company offers WESTLAW, which contains both full text and headnote retrieval options. The WESTLAW data bank covers the reporting courts of all fifty states and all federal

courts. WESTLAW incorporates West's Topic and Key Number system so that traditional research can be done using the computer. The full text accessibility varies by jurisdiction but all reported decisions since the beginning of 1978 are loaded with the full text and headnotes. WESTLAW subscribers use a Bell System dataspread terminal and printer which are connected to the central computer by data transmission lines.

LEXIS contains the full text of reported decisions of federal and state courts. The LEXIS manual, as well as the terminal, provide exact dates of coverage. There are also specialized libraries in tax, trade regulation, communications, securities, patent, trademark and ABA material. LEXIS uses a custom-designed terminal that is connected to the control computer by telephone lines.

Lawyer's Cooperative Publishing Company offers AUTOCITE, which provides case histories for any citation in the vast data bank of the publisher. A search request will provide the title of the case, year of decision, official and parallel citations, and a chronological history of any later decisions affecting the decision. AUTOCITE can be used with video or printer terminals, which are connected by telephone to the central computer. It is also offered on the LEXIS terminal with separate billing by Lawyer's Cooperative Publishing Company on a time basis. (It is available at Suffolk).

The accompanying bibliography includes comparisons of LEXIS and WESTLAW and readers are advised to keep up with the literature in the field for additional data banks and improvements in retrieval.

Federal agencies have various computer-assisted legal research systems. JURIS, developed by the Justice Department, and FLITE, developed by the Air Force, have extensive data banks. These systems are generally available only to government personnel. The National Institute of Law Enforcement and Criminal Justice of the United States Justice Department produces a law enforcement and criminal justice data base called NCJRS (National Criminal Justice Reference System). Aspen Systems Corporation offers computer services to the legal profession.

B. Word Processing

The expanding word processing industry has the potential to affect legal documentation more than any single type of information retrieval. The ability to



sort, collate and report on stored facts in fractions of seconds makes the service invaluable to those involved in complex litigation. While word processing promises much, the following caveats should be noted:

1. Computerization does not reduce total work effort, but increases it.
2. Computerization increases costs of handling files.
3. Computerization requires early intensive concentration by the attorney on the scope and issues of the cases and the nature of the discovery documents.
4. Computerization of the file requires greater man-hour dedication earlier in the case than a normal manual file index system, both in terms of training and in operation.
5. Computerization is instantaneous identification for retrieval of significant documents based on characteristics that have already been loaded into the data base.

The benefits of computerization for complex litigation involving huge volumes of documents, multiplicity of parties, issues or witnesses are not apparent until the vast majority of significant data has been loaded into the computer and is available for service. Then the flow of material is awe-inspiring.

In lengthy complex trials, the need for newly created collations of documents supporting, resisting or providing background on unanticipated mini-issues or witnesses is extreme. Computers, with

appropriate loading and retrieval plans, accomplish these necessary sortings over and over with tremendous speed and ease.

The systems that are currently available are all classified as automated typing systems that may be broken down into three categories: stand-alone systems, integrated word processors, and time-sharing vendors.

STAND-ALONE SYSTEMS: Stand-alone text editors are often equipped with video display tubes (CRTs). They are capable of editing, printing and storing text. Most units have limited capabilities engineered into the devices; therefore, training is minimal and operation is easily mastered. The following four firms are considered to be among the technical innovators in this field: A.B. Dick Co. (Chicago), Xerox Corp., Vydek, Inc. (Florham Park, N.J.), and Redactron Corp. (Hauppauge, N.Y.), a subsidiary of Burroughs.

INTEGRATED WORD PROCESSORS: An integrated word processor is a minicomputer-based system combining editing logic with CRT storage device, usually hard or soft disk, and generally contains its own central processing unit. These systems are gaining rapid acceptance in large law firm word processing centers because of their capability to "massage" data and because of their potential for electronic mail, photocomposition, microfilming, and graphics generation. Several firms offer this type of processor - e.g., Tycom Systems Corp. (Fairfield, N.J.), Wang Laboratories

Tewksbury, Mass.), CPT Corp. (Hopkins, Minn.), Base Information Systems, Inc. (N.Y.C.), and International Business Machines. Suffolk University Law School has rented a Wang unit and intends to explore its capability for administrative, academic and library functions.

TIME-SHARED VENDORS: A sophisticated main-frame computer utilizing a version of I.B.M.'s Administrative Terminal System software can be shared by many users. Costs are based on terminal connect time, and the customer is charged only while on-line. The computer receives text for storing, editing, complex manipulation and deletion. Playout of documents can be produced either on the user's equipment or at the vendor's service center.

ADDITIONAL READING: Attorneys interested in keeping abreast of computer developments should consult the *Massachusetts Lawyers Weekly* semiannual guide to word processing, most issues of the *Law Office Economics and Management* and, in general, issues of the *American Bar Association Journal*. See also, William E. Cwiklo, ed. *Computers in Litigation Support*, (Petrocelli Books 1979); Julius J. Marke, Technical Data Available with On-Line Searches, *New York Law Journal*, March 26, 1979, p. 23; Robert J. Munro, et al, *LEXIS vs. WESTLAW: An analysis of Automated Education*, 71 *Law Library J.* 471 (1978); William R. Park, ed. *Manual for Legal Assistants* (West 1979); James A. Sprowl, *WESTLAW vs. LEXIS: Computer As-*

sisted Legal Research Comes of Age, 1979 *Illinois Bar J.* 156 (Nov. 1979).

II. The Library Computer

The letters O,C,L,C in OCLC, Inc., no longer officially stand for anything (Ohio Colleges Library Center was its former name), but this nonprofit corporation stands for progress to librarians seeking better ways to bring books and readers together. OCLC means that library users can quickly find out which library owns the material they want and, beyond that, whether or not the wanted material can actually be borrowed. The apparatus used to determine these facts is a video terminal linked by phone to a computer data file in Columbus, Ohio, a file containing over 5,500,000 records of books and journals contributed by more than 2,000 libraries of all sizes and shapes across the country, including the Library of Congress and many law libraries. Each record is tagged with the name of the libraries which own the material and report it to OCLC, so if you do not find a book in your own library, the chances are excellent you can find it elsewhere and borrow it by mail.

Both the college and law libraries participate in the OCLC system – that is, they catalog their books on the video terminal, adding a record of them to the computer data file, and, at the same terminal, find and borrow books not in their collections which researchers want.

Librarians utilize OCLC because the on-line method of cataloging is so much easier than the old way, and quite econ-

omical. Some 98% of the books and journals the Suffolk libraries buy have already been cataloged by somebody else, so all that is normally required is minor editing of the record displayed on the screen, a press of the button with the command "Produce", and a seven-day wait for ready-to-file catalog cards, to appear in the mail. Much to the relief of librarians hassled in the past by would-be users impatient to get an uncataloged book into the library, the long waiting period of olden times has been reduced from a month or more to no time at all if the book is wanted right away.

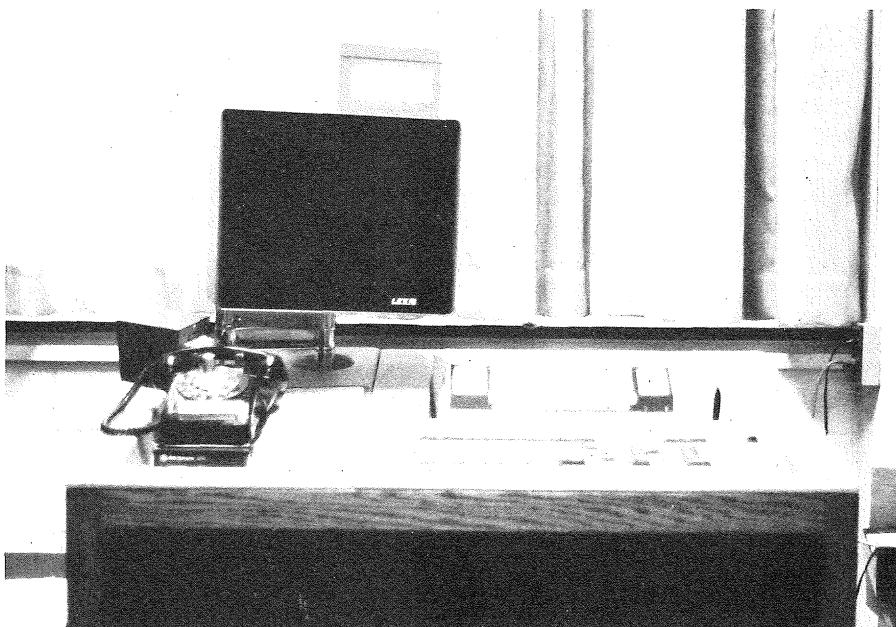
The researcher interested in beating the bushes for as much relevant material as he can lay hands on should covet OCLC, because it considerably loosens the constraints of limited book collections. The research, aided by a librarian, can locate the book/journal wanted, select up to five libraries owning it and send one inter-library loan request, which will automatically be sent to the selected string of libraries, until one actually sends it to him or her. It is documented in the College Library that during a nine-month period only 14 out of 93 requests could not be filled, and the normal length of time required to fill a request was nine days.

The law and college libraries would like to create a joint catalog of their respective collections. Not one out-size card catalog in one place, but a small-size one placed in areas most convenient to researchers. OCLC makes this possible. The cataloging is recorded on magnetic tapes as coded information, which can be directly transcribed in letters and numbers on microfilm. The microfilm is easily replicated as needed. The combined catalogs of the law and college libraries will fit onto one spool of microfilm, which a reader can fast-scan from "A" to "Z" in 30 seconds. The scenario of the future – firmly based upon today's technology – has our researcher seated at a "bibliography table", first scanning a microfilm index of all Suffolk library materials, then going to the video terminal to find out where to get those Suffolk doesn't have.

III. Video and Film

The law school has long had a policy of integrating film into its curricula.

The most noticeable service provided to the law school is the recording of moot court proceedings. Videotaping is available to all law students. In a typical second semester, when moot court is at



full swing, the Media Center produces more than 2000 video recordings. These recordings are reviewed and analyzed by the students, giving them a valuable opportunity to see themselves as others see them.

Professors who may be unable to meet with their classes may opt to pre-record one or several lectures for later viewing during the semester or at the regularly scheduled time of the class. While interaction between student and professor is lost on these occasions, valuable class time is conserved. Questions and answers can be managed on the next class session when the faculty member is present. A serendipitous factor is that the lecturer has an opportunity of evaluating his own performance. Some indeed show a flair for the dramatic as they arrange the decor for their "performance".

The Media Center's television studio, although run by the University, is flexible enough to handle all law school requests. The studio is compact but adequate. It has available quality color recording and editing, using JVC color cameras and Sony ¾ inch videocassettes recording and playback video units. The viewing area, in Donahue D-211, is equipped for both film and video, with video preview consoles arranged to show more than one program at a time. The consoles are portable so that arrangements can be made to show video tape in conjunction with a class. For example, a demonstration of LEXIS can be followed by a viewing of the Sprol tape on legal computers.

Presentations are not limited to on-campus productions. Nationally distributed videotape collections from organizations such as the American Bar Association and the National Institute of Trial Advocacy are a part of the library. One of the most popular items is Professor Younger's tapes on evidence. Scheduled for this year is an optional, bring-your-lunch showing of a film series of the American Trial Lawyers Association on a criminal case from arrest to appeal.

The Suffolk Moot Courtroom is equipped with two permanent black and white cameras and a small control room. During the client counseling competition, one camera is mounted next to a small window in the control room. The judges observe the client counseling on television. This unobtrusive setting is ideal for the interplay of student and client without faculty or camera dominance of the proceedings. (Note: Suffolk won the regional competition in 1980).

In the spring, during the finals of the McLaughlin and Clark moot court competitions, the video facilities of the Law School permit overflow audiences to be placed in nearby lecture halls. The moot court television images are fed by closed-circuit television into these rooms where either a 6 ft. projection TV or large standard TV sets are used to present courtroom events. Most finalists' recordings are kept as examples for other students. There is no question that the use of television has made the moot court experience one of the most popular events at the law school, with both participants and viewers.

Although film and video are more glamorous than audio tapes, the Law School recognizes the value of this medium to legal education. For instance, the Law School has the oral arguments before the United States Supreme Court in a number of seminal cases. During orientation in September, students waiting for their photo IDs had an opportunity to listen to Chief Justice Burger, Attorneys Jaworski and St. Clair (it is surprising how many voices can be identified if you know the cast of characters) in the momentous *U.S. v. Nixon* case. Other cases available include *San Antonio v. Rodriguez* (assigned by Professor Cronin), and *Furman v. Georgia*. It is interesting to note that the technique of using oral arguments was on a panel at the Convention of the American Association of Law Schools this January.

Obviously the use of these media is on the upswing. Hastings has a large number of videotape presentations available for rent or sale. New York University and McGeorge School of Law are experimenting with course material presented on videotape with a phone hookup for class discussion between New York and Sacramento. Matthew Bender sells a videotape on the bankruptcy law. Continuing legal education seminars feature videotape presentations. Condyne Publishers, the American Law Institute/American Bar Association, and others offer interesting tapes, both audio and video, for the student and practitioner. It would be an exciting prospect if a judge or lawyer, fresh from an intriguing law problem, would arrange to drop in at the Suffolk studio and tape his reactions and thoughts for permanent availability in the Media Center's large collection of tapes.

Future video and film plans include expansion of the collection of pre-recorded materials for student use, and preparation of new supplemental instructional

tapes, particularly in areas where illustration or viewing of outside events or performance analysis is important. The law library will be installing audio/video conference rooms and will be wired into the building's closed-circuit television distribution system, so that individual student viewing can take place in the library area.

The Media Center is experimenting with and studying several technologies for their supportive capabilities within the law school, including microcomputer systems, direct satellite and microwave TV reception, and development of an audio tape production facility. The Media Center believes in experimenting with most technological systems in order to assess their appropriateness for legal education. Experimentation is a necessary step before implementation.

IV. Microfilm and Microfiche

The Suffolk University Law Library is equipped to handle microfilm, microfiche and ultrafiche. It has reader-printers to handle all three forms of generally accepted methods to reproduce printed material into miniature size. In one room, the size of a lawyer's conference room, the law school can house the equivalent number of books that can be found on the main floor of the Harvard Law School Library.

The purchasing policy of Suffolk Law School is to offer its patrons a full service of legal materials in whatever form best fits into its budget and its projected hard copy size of 250,000 volumes. Many sets are only available in this form, such as *American Decisions*, *American State Reports*, *Massachusetts Records and Briefs* and *New York Records and Briefs*. All the state reports prior to the National Reporter System, and many concurrent with it are being offered by publishers. West Publishing has made available the National Reporter System, First Series (also *Federal Reporter, Second Series*) in ultrafiche form. Suffolk has purchased a number of law reviews as backups to its bound sets. This year an index to law review articles is being sold in microform. There is no question that the legal profession will have to become familiar with the capabilities of this form for their use in law libraries and also to make their own offices more efficient.

This article has attempted to explore what is being done at Suffolk University to handle the information explosion. When we report back to you a few years from now, the fanciful items that led off this piece may be the body of that article.

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