

For Your Thought

Have the legal concepts of "fault" lost the usefulness that they might have once had? Within the realm of auto accidents and divorces the legal premise of "fault" has lead to a black or white approach, but as our knowledge of sociology and psychology has increased, most situations seem to be more of a nebulous and complex nature far from being black and white.

In his article on no fault insurance, Charles Poston shows that liability determinations no longer, if they ever did, fulfill the function of punishment. In fact, every driver's premiums underwrite those large jury decisions. Negligence cases have developed a world of their own, apart from reality, where the skill of a lawyer, not the needs of the injured are determinative of the final outcome.

The same basic premise of "fault" is questioned in Les Bailey's article on no-fault divorce. The "grounds" for divorce are often in reality the visible symptoms of a disrupted relationship. Instead of condemning and seeking to punish the "guilty" perhaps the better role of the State would be to aid in reconciliation. If this is not possible then the legal bonds should be dissolved with as little disruption as possible.

Perhaps it is too easy for a law student to criticize that in which he does not have a vested interest, but if those who practice law are indeed part of profession then it is they who should seek-out change when it is obvious that a system is not serving the people. If the Legal Profession would be willing to seek legal change, then perhaps we could regain the respect of those people who's interest we seek to protect. But then again how many new cars will respect pay for... *