The Forum (Volume 3, Number 2)

Valparaiso University School of Law

Follow this and additional works at: https://scholar.valpo.edu/law_forum

Part of the Law Commons

This Article is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Valparaiso Law School Forum by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.
BAR EXAM CREATES FUROR

by Dee Bruening
and Polly Riedel

On July 19, 1973, law students taking the Bar Examination for the State of Indiana were treated to a Constitutional Law question which probably has sparked more controversy than any other bar exam question in recent years.

The question, which was written by Myron J. Hack, a South Bend attorney, focused upon a character by the name of Ms. (of course!) Clytemnestra Toris, a so-called student radical. Ms. Toris, better known as "Cly," was depicted as being a foul-mouthed, irrational, castrating, feminist lesbian (Lesbian in both senses of the word, since she was born on the Island of Lesbos) who delighted in writing inflammatory if not pornographic articles and editorials in her newspaper, the Daily Dildo. Because of her activities and articles campus authorities brought disciplinary action against her. Mr. Hack's questions centered around due process, censorship and 1st Amendment issues raised by Ms. Toris's actions. (The complete question can be found on reserve in our library, along with pertinent correspondence relating to the question.)

Initial objections to Mr. Hack's question were raised by Margaret G. Robb, President of the Indiana Governor's Commission on the Status of Women. In a letter sent 8/30/73, Ms. Robb requested Mr. Maurice G. Robinson, head of the state Board of Bar Examiners, to explain how and why this particular type of question was allowed to appear on the bar exam. She further requested statistics as to how many men and women took the exam, how many passed the exam, the number of men and women who missed this particular question, and the number of failures because of this question.

Ms. Robb expressed the following concern: "I think it is unfortunate that questions of this nature appeared on the examination. It is occurrences such as this that makes the women's movement even more critical. I am certain that had the questions contained racial or religious slurs rather than sexual ones, the outcry would have been phenomenal. The legal profession should be highly sensitive to the too often used stereotype of women -- a sexual object overly concerned with a castrated life."

Following this letter by Ms. Robb, Mr. Robinson asked the deans of the four Indiana law schools to respond to both the question and the letter from the Women's Commission. Dean Meyer's response from Valpo stressed two issues: "What should be done to prevent similar questions on future bar exams and what should be done to rectify any injustice to the examinees on this question?"

On the first issue, Meyer assumed that with proper review procedures this type of question would not appear again. Concerning the second issue, Meyer proposed that the entire question by Mr. Hack be "thrown out." In commenting further, the Dean observed, "Had such questions appeared on an examination administered at this law school, I shudder to contemplate the consequences. I would shudder because I could think of no possible justification (including "academic freedom") with which to respond to complainants." He went on to say that, "the context of the two questions is so demeaning to the status of women that an applicant should not be prejudiced by a failure to apply analytical and reasoning skills to the legal issues involved."

Mr. Hack's subsequent correspondence to Dean Meyer and to the bar examinees, attempting to explain and justify his question, is impossible to describe fairly and dispassionately. It must be read in its entirety to be believed. His arrogance, arrogance and attempts at humor are possibly even more disturbing than his original question. Therefore, we encourage you to read his letters and "The Saga of Clytemnestra Toris -- An Epilogue" which are on reserve in the library with the rest of the materials quoted above.

In spite of the outcry and discussions of possible litigation against the Board of Examiners, nothing in fact has been done to alleviate the situation except for the Board's limited action allowing women examinees who were disturbed by the question to petition for review. As of this date, we have no information concerning legal action against the Board by any state women's organizations. It seems that the best we can hope for is that questions such as Mr. Hack's will not appear again on this state's bar exam.

(contin'd. on page 4)
Part I
Johnny Volcano had a plan. Which meant cancelled vacations and black coffee suppers for every cop in Chicago who wasn't on the take, and a new dishwasher for the wife of every cop who was. It meant every small-time hustler and runner and ambulance chaser could hit the streets again because the Heat would be burning higher, over their heads. It meant the shit would hit the fan.

Out from beneath the lavender sheets, out from the envy-green sleeping kimono, erupted Johnny Volcano, erupted the eternal erup-...
by Marie Failinger

(Ed. Note: At the Friday meeting, the Board of Directors gave the go ahead for the architect to draw up plans for the various options noted below.)

On Friday, October 26, the Buildings and Grounds subcommittee of the University Board of Directors will decide whether to proceed with plans for a new law library addition.

One option to be presented is a three-part expansion program. Part one would put a second story on the present library, providing additional stack space and temporary seminar rooms. Part two would add more faculty offices, extending from the office side of the building. Part three would furnish seminar rooms at the courtroom side of the law school.

These additions might be built simultaneously or separately, depending on architectural considerations.

The Committee will face a proposal of needs prepared by the Law School Library Building Committee appointed by President Huesli at the end of May. Members include Deans Meyer and Foster, Vice-President Gram, Professors Gahl, Hess, Bartelt, and Brockington, and students Don Weidner and Steve Honett.

In preparation for the proposal, Prof. Hess last summer outlined needs for double the present stack space and a special collections room. At the present rate of library acquisitions, this would accommodate needs for the next two years of growth. Hess also included an office for a second professional law librarian, workspace for two full-time clerks, storage, and security requirements for the front desk. Students would especially benefit from a proposed increase in seating from 125 to 185 places complying with the AALS standard, and five closed carrels for research and writing. A microfilm room would house both microreaders and photocopiers.

The Library Committee also requested more faculty offices, two seminar rooms seating approximately twenty each, and more administrative and secretarial space. Central air conditioning was recommended as a "must" in any major expansion program. Prof. Brockington suggested the need for isolated seating throughout the stack area and a lounge-type reading room with comfortable furniture.

Weidner felt that the Library Committee should include future students needs in its statement. He proposed that the Law Review should have better working conditions and Moot Court could use at least one office and a closed carrel in order to free other carrels for the rest of the student body. He thought that SBA and the Practical Program might also be accommodated programs such as the book exchange and the Law School Forum, and that the Clinical Program should have an office for research. Another idea he presented was an expansion of the parking lot to accommodate all law student ears. Of his suggestions, only offices for the

October, 1973
Editors
Valparaiso Law Forum

In your editorial, "The Crowd Pleasers" (September, 1973), you stated that "... Congress has no business meddling in the private affairs of American business - no matter how much the public may support the move." I must respectfully disagree.

Business is notorious for lining its pockets at the expense of the American public. It appears to me that you are not only condoning that practice, but also chastising the legislators who have at least in such a minor way retreated from a "laissez faire" attitude toward business enterprises. I suggest that all the American people must be considered in decisions which affect the American business - not just the profiteering business entrepreneur. Such consideration, by and for the people, is not meddling.

Your statement was in reference to football legislation. I personally find the area rather trivial and insignificant; especially in relation to the many critical situations in our nation where it has become more and more apparent that business cannot continue to exploit the American people under the guise of private enterprise. It is for that reason that I here address myself.

The problems with the relationship of business and the government have once again been evidenced by the Senate Watergate Committee's recent report and the contributions of American businesses in the 1972 presidential election. One major corporation after another has admitted such crimes in the last few months. It appears that the American electorate was victim to deceptive and fraudulent practices by both individuals and by American businesses, such as to completely corrupt the democratic processes and to co-opt the American dream. I doubt anyone would suggest such activity is within the private profit motive of the enterprise and its private concerns.

But politics is not the only arena where business must abstain from such practices. Another area of crucial concern is that of environmental protection. It is evident that private enterprise cannot be allowed to exist in polluting at the expense of the American people and of future

The Valparaiso Law Forum

Vol 3 No. 2
Nov, 1973

The Valparaiso Law Forum is published during the academic year by the students of the Valparaiso School of Law. The views expressed herein are not necessarily those of the students, faculty, or administrators of the School. Signed articles are the opinions of their authors. Unsigned articles were written by the editor and are expressions of his opinions. The Forum is located in the Student Bar Association office at the Valparaiso School of Law, Valparaiso University, Valparaiso, Indiana 46383.
CAUCUS CORNER

WAMM

In the last ten years the emergence of minority groups that has captured the national fancy. This, in conjunction with the post Kennedy penchant for initials, led to the affirmative action movement. The same determinative on JFK, LBJ, and LSD. Magazine publishers took up the public cue and every issue covered the leaders of NASA, NAACP, CREEP, and NOW. As this trend in national publications continues on intimate exposes by the characters of the floodgate affair it is our pleasure to introduce you to the WAMM Caucus. The interview which is to be presented was with Robert Riggs the chairman of the White Anglo Male Minority Caucus.

Query: Mr. Riggs, to what do you owe the emergence of WAMM and its climbing to national prominence as a minority organization?

Mr. Riggs: Well, in the past we were consistently marginalized as a self-performing majority who suppressed all. Out of fear that this may be true we stepped aside and allowed the minorities to move into all fields. By the time we had realized what had happened we had no place to go.

Query: Now, Mr. Riggs, since your organization was once a majority how do you strive to correct the situation of pigeon hole prejudice?

Mr. Riggs: Having been quiet for so long it is difficult to encourage members to have pride in their species. I've heard of attempts by members to naturalize their hair style and of trying to shave their legs with double edge blades. Our first move was to install self pride in publications such as White Like Me by Robert Sheldon and Alabaster, an all white magazine. The more militant members of our ever growing force have boycotted Barbara Walter's home and held massive rallies constructing fires and chanting, "Ban the jock!"

Query: Those are very commendable efforts, Mr. Riggs. As we know, each bonafide minority must have a set of objectives. Do you have such?

Mr. Riggs: Most assuredly we do. The caucus has a sevenfold program which we are striving to snatch from the dream world and make concrete. First, we request that the common law over rights which are still held sacred in a greater, but law students aren't. B) A special citation to the powers that be on fulfilling the need of the 577 and under law students to be instructed by those they can identify with.

Query: Please, continue, Mr. Riggs.

Mr. Riggs: Yes, sir. We are individuals who seek a chance to stroke the ball over the nets or prejudice into the forefront of life.

Query: Very well put, Mr. Riggs and good day.

Citations for the issue: A special thanks to the crack electronics crew for ending the Valparaiso brown out. Justice is blind but lawn aren't. B) A special citation to the powers that be on fulfilling the need of the 577 and under law students to be instructed by those they can identify with.

RALLY CORNER

The Law Wives are sponsoring a raffle which promises to generate high interest among both students and faculty. Six prizes will be awarded, all of which are high in alcohol content. First prize will be $35.00 worth of liquor, booze, and assorted other moonshine. Second prize is $25.00 worth of liquor; Third prize is $10.00 worth of liquor. Fourth and fifth prizes are lesser amounts of assorted booze. You guessed it; sixth prize is a six pack.

The Law Wives will begin selling tickets on November 8th for $1.00 each. The winning tickets will be drawn at the Law Wives December 13th meeting in order that the prizes can be distributed in time for finals.

A portion of the eighty proof profits are a concern the attitude has often been, "Forget the environment, it's our private affair, the public be damned!" When such is the case, the government and the public have every right and a definite responsibility to act.

Justice Roberts, writing for the Court in Nebbia v. New York, 291 U.S. 502, 54 S.Ct. 505, 70 L.Ed. 940 (1934), stated that:

"The Constitution does not secure to anyone liberty to conduct his business in such fashion as to inflict injury upon the public at large, or upon any substantial group of people...any...form of regulation is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant and unrelated to the policy the legislature is free to adopt, and hence an unnecessary and unwarranted interference with individual liberty."

It appears to me that where business ventures adversely affect the people, it is no longer a "private affair" but rather an affair of public concern.

Candice Hektner