Telebusiness

On February 11, Federal Communications Commissioner Nicholas Johnson spoke before the Harvard Law Forum on the emergence of Public Broadcasting as an alternative to the entertainment monopoly now enjoyed by the commercial networks. The inadequacy of network programming is, of course, common knowledge, and the importance of FCC regulations of the electronic media is now gaining wide acceptance in legal circles (see "FCC License Removal Policy and the Right to Broadcast" in the winter volume of the B.U. Law Review). The following article is taken primarily from Nick Johnson's mid-winter speech and his book, "How To Talk Back To Your Television Set" (Bantam Books, 1970, §95).

What is "Television"?

The purpose of television is not to entertain or to inform. Television is in the business of selling viewers. As a profit-making business it shows a 200% return on tangible investment-its primary objective is to sell air time to sponsors. One minute of network prime time now goes for about $80,000; for this the network will guarantee the sponsor X number of viewers for his advertising message. The more viewers a network can capture for a given time slot the more the network has to offer the prospective sponsor who of course wants the maximum audience for his advertising dollar. In this context the networks secondary goal surfaces: Offer programs that the Nielsen ratings show are attracting large numbers of viewers. Mass appeal is the name of the ratings game. All but

Olive Oil Speaks

Preface: This article was written in the best of faith. When I use the word masculine I do not mean, and it should not be inferred, that only men have these views. Every one in our society, men and women, have these views in greater or lesser extents. And these extents are only functions of our circumstances. When we are fortunate enough to be able to rethink our priorities, to get away with all badges and inducements in any form. Thus if you want to read "bruburningwoman's slip" you need not bother to read this as you will not obtain any satisfaction.

This article is an attempt to bring to light some masculine biases occurring specifically in the legal field, and fostered and furthered in law schools. There is also reference to masculine prejudices resulting in oppressive practices in society that the legal profession (generally) instead of demanding and striving for justice, either figures or actively aids in the oppression. This article is offered in the hopes that next year will see progressive changes at Suffolk, reflecting the liberal and justice-seeking aspect of law.

I am certain no books are being written explaining various ways in which women are oppressed in our patriarchal society. I am listing a few that I personally have become aware of, with a belief that the legal profession should be affecting change and the legal educational institutions should train lawyers to be effective for change.

To begin with, let us take a quick look at the tax situation. In the fall 1970 (vol. 25, no. 7) issue of Rutgers Law Review, George Conk on back...

[26 U.S.C. §610: "It is unlawful for...any corporation organized by authority of any Law of the United States to make a contribution or expenditure in connection with any election to any political office, or...in connection with any...political convention or caucus held to select candidates for any political office...

Every corporation...in violation of this section shall be fined not more than $5,000, and any officer or director of any corporation...who consents to any contribution...and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful...not more than $10,000 or imprisoned not more than two years, or both...]

It would seem that the past actions of ITT in attempting to buy their way into an advantageous corporate merger fall within the above section of the United States Code. At present however, a grand jury is not being convened anywhere to consider a possible indictment. There seems to be a tacit understanding that the Justice Department just wouldn't be behind any B.A. on this one. And Jimmy Hoffa goes free; Fathers Berrigan and Mr. Ellisberg are indicted and prosecuted, quite energetically by the Justice Department.

This selective enforcement of existing laws makes some of us wonder why if the government can stretch the conspiracy concept, ("The toy in the prosecutors playbook," Hand, L.J.) to indict the Berrigans, it surely can do the same with ITT. Or, as Rev. Abernathy once said, "Get on the case, Mr. Hoover.

No chance, Ralph.
Congressional Hearings. The Boston Globe recently reported (Boston Sunday Globe, Feb. 13, 1972, p. 49), the following testimony of David Hintsel, one of the 3,000 members of the Writers Guild of America (who write all that is seen on T.V.)

"Writers by the dozen report that they have written characters who were black and have seen them changed to white. They have written Jews and seen them converted to Gentiles. They have proposed shows about South African apartheid, Vietnam, old folks, mental disease, politics, business, labor, students, and minorities... and have been chased out of the studios."

Robert Collins, another writer, testified about scripts he submitted for the "word-wars" series, "The Senator," dealing with contemporary problems such as amnesty for draft evaders, the storage of nerve gas near urban areas, and the "security risk" of homosexuals. Each of the scripts was rejected by NBC, as too controversial. Who are the plots too controversial for NBC, which is owned by a leading defense contractor? And what is so wrong with controversy?

The Sponsors

Throughout this article you have been aware of the sponsors behind every knob and wearing a black hat. Does he really control T.V.? The simple answer is Yes. Television in paid $4 Billion yearly to act as the mirror drawing attention to the sponsors product. The networks have been forced to follow the mandates of their sole source of income, the sponsors.

The networks in turn act as the "agents" for the sponsors will in influence Congress. Television's leverage for these elected officials is impressive. Today a national politician spends over 80% of his campaign funds on television advertising. Network news coverage can make or break an incumbent with his far-away constituents. An example of the kind of influence the sponsors through the networks, exert classes over T.V. can be found in the cigarette commercial ban on T.V.

Most of us felt that the FCC edict banning all broadcast cigarette commercials was a public interest decision, which it was. But there are many people who also believe that the reason why the FCC edict was not simply overruled by Congress was that the tobacco industry actually welcomed the ban. Their reasons are twofold: 1) T.V. advertising had become disproportionately expensive for the three companies that control the cigarette market; 2) "Equal time" for anti-smoking messages were hurting sales.

The New York Times recently reported (New York Times, Feb. 13, 1972, p. 72), that cigarette producers "were black and have seen their sales over the last few years. The Times then went on to attribute this new surge of smokers to the abolition of anti-smoking messages which were required by law."

Alternatives

Alternatives to the present system do exist; just turn on your television set and you will see that there is a need for some kind of censorship over T.V. The networks in turn are a perfect example of the kind of censorship that is selected to reflect the audience's viewing preferences. The answer: what we want is an awareness of the myriad problems facing us. While a bit of escape is unquestionably healthy, T.V. has an obligation to supplement entertainment with more than the current 2% of prime time devoted to "news and public affairs" programming. The statistic on the amount of time spent in front of the television proves that it is too powerful a medium to be devoted solely to entertainment: 95% of all American homes have at least one television, and the average T.V. is on six hours a day. The T.V. as a baby-sitter is an accepted American phenomenon; Nick Johnson claims that studies have shown that by age five will have spent more time in front of a T.V. than he will spend in college classrooms. Only "Seasame Street" measures up to the standards that should be required for such a pervasive influence during a child's formative years-if it weren't for P.B.S., how long would it have been before the commercial T.V. to meet its educational responsibilities? Will commercial T.V. ever produce the Jeffersonian informed-citizen as the pulwark of democracy ideal?

The Network

The networks exercise two forms of censorship over their artists. Firstly, there is the pressure to keep all programming consumer-oriented. Have you noticed how series settings are all either foreign, the old west, or the middle east? If the series is set in contemporary America, you can be sure that there are plenty of appliances, late model cars, and the characters are all well dressed. Poverty is out.

The second more overt form of censorship is over the writers. Firstly, there is the pressure to keep all programming consumer-oriented. Have you noticed how series settings are all either foreign, the old west, or the middle east? If the series is set in contemporary America, you can be sure that there are plenty of appliances, late model cars, and the characters are all well dressed. Poverty is out.

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PBS, the Public Broadcasting System, now offers some relief from the boring homogeneity of commercial television's programming. While commercial T.V. is bound by the profit motive to seek mass appeal the "educational" network can go for the minorities - you know, those 20 million people over 65; 20 million people under 16; 25 million blacks. But a real, viable alternative to commercial T.V. is going to cost money and must be accomplished through a funding system insulated from political pressures. Right now, the Federal Government allot $35 million to PBS, and accomplishes this through the Corporation for Public Broadcasting whose members are appointed by the President.

What can we, as law students, do to improve T.V.? Caring about it is a start. Specifically-

Take a course in Media and Communications Law: If it isn't offered at Suffolk next year, see Professor Potter for the procedure for enrolling in courses offered by other area law schools. At B.U., Professor Aronowitz teaches a dynamics course. Professor Jaffe, the Administrative Law expert, teaches the course at Harvard; if his performance at Commissioner Johnson's speech is any indication, he definitely knows what's happening in the media.

Or, As outrageous as it seems, read a book on the broadcast media. There is a complete bibliography of relevant reading in the back of Your Television, and the Alfred DuPont - "Columbia University Survey of Broadcast Journalis 1970-1971: A State of Seige" is fascinating reading.

DO IT!

John Banzhaf was an attorney in his twenties when he made history by single-handedly establishing the "equal time" requirement for anti-smoking messages. He accomplished this by generally raising hell through the legal process until the FCC had to recognize his case. You too could make history by winning equal time for safety messages for all auto advertising, or whatever your particular bitch with public broadcasting happens to be. The FCC is far too understaffed to raise issues sua sponte, but once a case is properly before them they must decide it on the merits.

The most direct way to exert your influence over local television or radio programming is through challenging local broadcast license renewals. The FCC merely grants three year "licenses" to use the airwaves; they are owned by the public. Private citizens now have standing to challenge any license renewal application, and the exercise or threatened exercise of this challenge power strikes true fear in the capitalist hearts of local broadcasters! The Herald Traveller is estimated to be losing net income of $290,000 a day with the loss of Channel 5, WWHH. By forming or joining an organization to monitor local programming with a goal of challenging Massachusetts license renewals in 1976, one can acquire real influence over local programming decisions.

Television is not going to retreat from the problem of television. It will take the sustained effort of a concerned public to turn-around an institution intent on making money instead of benefiting the society which supports it. Unless we are willing to make a commitment to improve the quality of television, it will remain a "vast wasteland" instead of a fertile source of information and ideas.

Bill Grant

Olive (3)...

der, or a race case, these are different games. The defendant is judged, apparently, on his victim's record of chastity, thanks to the clever members of our noble field. Is that justice in application? Did these lawyers take professional ethics courses like ours? If I submit that once again, woman is cast in the role of sexual sinner. ("You must've asked for it, lady, you expect me to believe that?"") What is either? It's her fault she got raped, or what's the big deal anyway - was it the first time? Regardless of why this is, the psychological reasons, it is something lawyers felt they wanted to, attempt to ameliorate. Certainly there are rapes being committed; and we as attorneys should investigate, take it seriously.

I have not even mentioned some of the really obvious discriminations occurring in everyday life, the perpetuation of the coverture doctrine in terms of a married woman's reversion to child status, loss of credit, etc. The legal profession can - and must - take action to challenge injustices and progressive legislation, to open up law schools to women with some liberal pro-

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Olive Cooper, in an article on working wives and the tax law, begins by conceding that the tax law is unfavorable to women in some respects. I would contest the word "favorable" because, as Cooper next indicates, these "favorable" provisions of the IRS Code are protective of will, income-producing housewives. Cooper points out that the tax law does more than reflect the sex of society: he writes "its provisions have a powerful effect in assuring that the expectation will be that the giving a preferred tax treatment to woman who is housekeepers and penalizing those women who wish to work. Whether or not it was intended that way, the tax law tends to put women in their place and keep them there. (Emphasis mine.) Protection is not specific; it goes on to cite specific situations and examples that are not within its provisions. One important point he makes in an example is that if a wife goes to work, expecting to earn may be more than half of the income, when the subacts home-care cost, transportation and incidentals (all reasonably low estimates) about with $2,000. She gets no tax reduction on this expenditure and since her husband's income is added onto hers, she will have to pay $1,366 in taxes (p. 71, supra) How nice, $634 for a working woman. This sad situation requires remedies. Men (and women) will not stop thinking of wives as assets, and women cease to begin to understand themselves as economically capable until all the incidentals of a master and slavery are wiped out. Among these incidentals, the badges and indignities, then, we can count the tax laws.

There are always the angering (disheartening?) statistics to further prove even when women are equally educed they receive lower pay. While almost half the women earn over $10,000, as compared with 23% men, (These figures are from the Women's Lawyers Journal, vol. 65, #1, winter 1976, in an article written by D. Hallowell.) And although women as of 1970 occupied over 40% of elective collar positions, less than 1 in 10 management positions were filled by them (I wonder what the figures would show about the women who do hold management positions, if any oversee men.) Women have great difficulty in upward mobility, because of sexual discrimination. Traditional prejudices control, such as women cannot be bosses, they are unreasonable, emotional, irrational, or even, albeit they work their main place is at home, at husband's side. There are still 53 women at home and not at the office; they do not need promotion, as a man does. Notice, intuitively, classic classes are strangely similar to racist classes: blacks are inferior; emotional, primitively male; white, separate, but equal, back of the bug syndrome; the controlled Negro suffering along, a simile of differential diagnosis, the flattening out, dear?. Back to the statistics of Equal Employment Opportunity Commission's figures demonstrate, according to Attly-Hollowell (a personal and said commission) that even within the same occupational classification, women earn considerably less, sometimes co-workers. And in our own profession, which ought to provide an example of justice in apprehension for the Institute, (Rutgers Law Review, op. cit., p. 37), and when women attorneys are hired, they receive the "backroom treatment." The research, the work "feminine" type of work, how cowed bafals the women does change to press the classifications! Like the "appar" trigger (who organizes the ghettos for self help), or the black racist (who believes in self-defense), this woman is a "bitch" (meaning she is aggressive and does not allow herself to be pushed down; she dares to win), or a female chauvinist (you don't see, you've got to be extreme, my dear)-meaning less.

I can explain to the woman, taking sure to address her as a woman, as woman possesses working.) If a woman is professionally successful outside of feminine bounds, it is acknowledged unless she also keeps a nice home with children, that there is something wrong with her, and no one thing it odd, or sick (in fact, we all laugh) when a person states "she's got a pair tough as nails. - Thereby actually evincing his basic fears of inadequacy. Others, in mental terms, a professional woman is kept coming and going, but she's a failure as a person or as a woman.

But even those who do not see the validity of this type of oppression, must agree certain laws are necessary to regulate discrimination. For only when the badges and indignity of woman's slavery are cleared, next generation grow up unbiased. There are other complaints, however, such as loss of seniority upon leave for giving birth (query: why aren't women reimbursed for this validation to society? Like social security benefits -- because childbirth is seen and used -- as a way to keep women in the protective legislation preventing women from the right to earn overtime; insurance benefits that are speeded up for household requirements; labor management agreements excluding housekeepers; etc. etc. etc.

Furthermore, the woman professional will have a tougher time in their careers, besides being judged on their physical attributes as to answer intimate questions on attitudes on marriage, children, what they plan to do about these things. Prospective employers are actually wasting to cover the gap because the employee takes off to have a child, or get married. In reality, the fact, there is a woman that she will be considered a second class worker and in the complaints I have listed are reasons of society's structure. The patriarchal foundation to this structural is the assumptions of understanding and change must really concentrate. Women find it more difficult to attain a career and are less necessary for equal employment. Some of the reasons:

1. Educational institutions: neglected for both, real and de facto.
2. Society's pressures to keep women at home, including the physical realigned at all, or very lightly compared to the woman. And sociologically, the man does not suffer at all, while bared, the name for her job is used as a curse, a nasty insult. The illegality of prostitution means women are a cultural disapproval and disgust of sex; but why are women declared to the the guilty parties? Because women are responsible for sex, just as they are responsible for children; sex is their rational definition. Since women are responsible, they are liable to guilt, to be shunned in society and denied a career in our legal system. In terms of sentencing, a recent BAC article brought out some of the oppression of women by the criminal justice system in Mass. There is only 1 prison for women and it works on an indeterminate sentence system, as compared with a judge's choice on where to send a male convict. There are some interesting complaints of the female prisoners, like physical maltreatment, abuse (including rape).

Rape is another topic BAC highlighted recently (Owen Marshall, too), bringing to light some very disturbing facts. For instance, it is next to impossible to obtain a conviction (unless it's co-