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**EMERGENCY  
MORATORIUM:  
CALLED BY  
WORKERS  
AND  
STUDENTS  
THROUGHOUT THE NATION  
ON  
MAY 4**

## tele- business

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 Renewal 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 Nielson ratings show are attracting large numbers of viewers. Mass appeal is the name of the ratings game. All but

CON'T

## 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. Everyone in our society, men and women, have these views in greater or lesser extents. And these extents are only functions of our circumstances. We live in an age when we are fortunate enough to be able to rethink our priorities, and to begin to do away with all badges and indicia of slavery in any form. Thus if you want to read "braburningwoman'slib" 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 school. There is also reference to masculine prejudices resulting in oppressive practices in society that the legal profession (generally) instead of demanding and moving for justice, either ignores 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 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, for a change.

To begin with, let us take a quick look at the tax situation. In the Fall 1970 (vol. 25, #1, p.67) issue of Rutgers Law Review, George

CON'T ON BACK...

## ITT

[18 U.S.C. sec.610: "It is unlawful for...any corporation organized by authority of any Law of Congress, 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 every 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 D.A. on this one. And Jimmy Hoffa goes free; Fathers Berrigan and Mr. Ellsberg 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 playpen." Hand, L.J.) to indict the Berrigans et al, it surely can do the same with ITT. Or, as Rev. Abernathy once said, "Get on the case, Mr. Hoover."

No chance, Ralph. • DD



## TELE-BUSINESS....

forgotten in programming decisions is the standard of esthetic, informational or cultural value. Moreover the network Exec can't be concerned with whether the viewer needs to know something; his singular concern is whether the viewer wants to know it.

So what is so wrong about programming that is selected to reflect the audience's viewing preferences? The answer: What we want is often not what we need. The enormous amount of time spent in front of the television should be used for something more than adventure series and situation comedies; there is a need that the citizenry stay abreast of political and social developments and that we all build 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 statistics 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 a child will have spent more time in front of a T.V. than he will spend in college classrooms. Only "Sesame 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 taken for commercial T.V. to meet its educational responsibilities? Will commercial T.V. ever foster the Jeffersonian informed-citizen-as-the-bulwark-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 or upper classes? If the series is set in contemporary America, you can be sure 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 screen writers' creations. The object of the censorship is to foster the viewers' God is in heaven; all is right with the world image of modern day living. The extent of this censorship is now being revealed in Senator Sam Ervins (D.-N.C.)

Congressional Hearings. The Boston Globe recently reported (Boston Sunday Globe, Feb. 13, 1972, p. 49), the following testimony of David Rintels, one of the 3,000 members of the Writers Guild of America (who write all that is seen on T.V.)

"Writers by the dozens 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 award-winning 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 these plots too controversial for-NBC, which is owned by a leading defense contractor, RCA? And what is so wrong with controversy?

### The Sponsors

Throughout this article you have seen the sponsor behind every knob and wearing a black hat. Does he really control T.V.? The simple answer is Yes. Television is paid \$4 Billion yearly to act as the neon sign drawing attention to the sponsors product. The networks have little alternative to following the mandates of their sole source of income, the sponsors.

The networks in turn act as conduits for the sponsors will in influencing Congress. Television's leverage over elected officials is impressive. Today a national politician spends over 60% 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, exer-

cises 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:

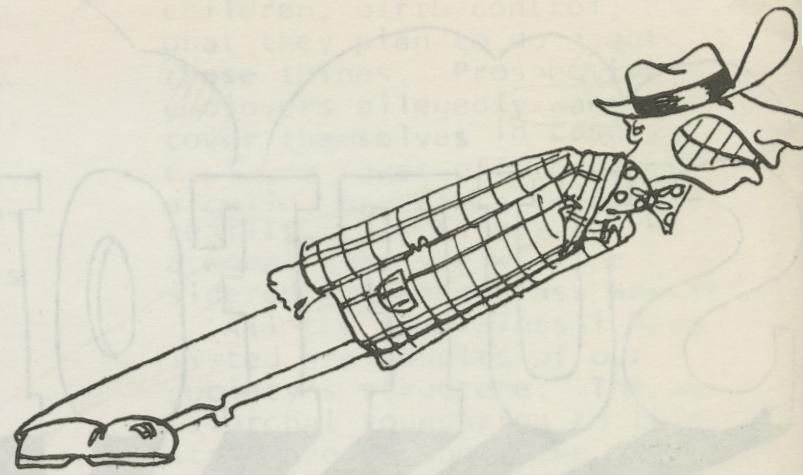
- 1.) T.V. advertising had become disproportionately expensive for the three companies that control the cigarette market;
- 2.) "Equal time" for anti-smoking messages were hurting sales.

The New York Times recently reported (New York Times, Feb. 13, 1972, p. 72), that cigarette sales are now on an up-swing over a steady drop in 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 as "equal time" for all cigarette commercials.

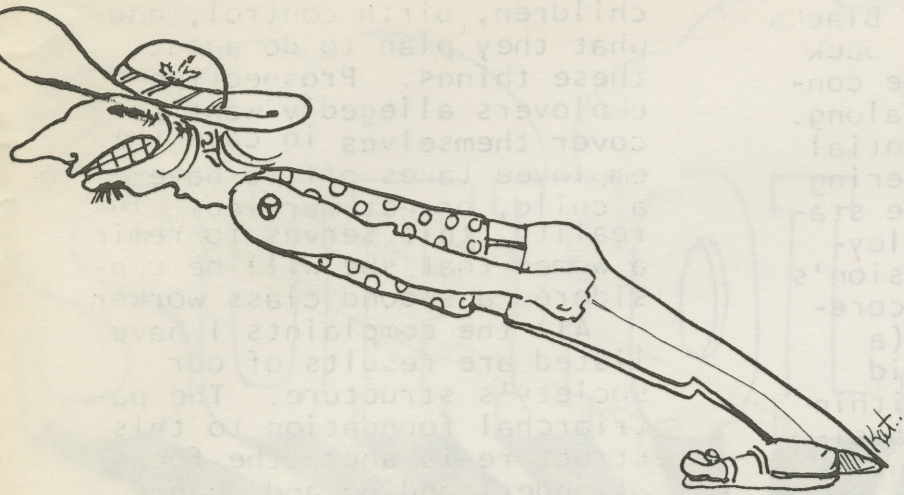
### Alternatives

Alternatives to the present system do exist; you just don't hear about them on T.V. A rich source of local community programming is available in CATV or cable television. By setting-up a cable system over 20 new channels could then direct their programming to a smaller more select viewing audience. Since it is inherently a cheaper medium, air time would cost a fraction of the network price, allowing a sponsor to direct his message at a smaller audience while still realizing a healthy return on his investment. Whether the potential of CATV will ever be realized is now an open question. A recent FCC ruling (Commissioner Johnson dissenting) severely limited cable development in established markets, thereby protecting established broadcast interests. Although this decision will be challenged in the Courts, and questioned in various legislatures, it will unquestionably have a damaging effect on CATV.

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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 5; 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 alots a piddling 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 Pote for the procedure for enrolling in courses offered by other area law schools. At B.U., Professor Aronowitz teaches a dynamite 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 whats 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 How To Talk Back To Your Television, and the Alfred DuPont - "Columbia University Survey of Broadcast Journalism 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 advertisements, - 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 \$20,000 a day with the loss of Channel 5, WHDH. By forming or joining an organization to monitor local programming with a goal of challenging Massachusetts license renewals in 1975, one can acquire real influence over local programming decisions.

Television is not going to reform itself. 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? 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?") It 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 could, if they wanted to, attempt to ameliorate. Certainly there are rapes being committed;

and we as attorneys should investigate the situation.

I have not even mentioned some of the really obvious discriminations occurring in everyday life; the remains 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 challenging suits and progressive legislation, to open up law schools to more women with special programs; to make available material and education on women's rights; to repeal existing laws propagating and permitting the oppression of women.

I would like to end this article stressing one point: That the form of pre-judgement of a sexual bias is the oldest, most ingrained in our world, in history as we know it. (ALSO written by men! A great book on the "pre-historic" gynocratic world is The First Sex, by E. G. Davis.) Because of this, people think this is the way it must always be. My complaints and questions may sound ridiculous at this point; but as W. William Hodes wrote (Rutgers, op.cit., p. 52-3), "At this point in history such suggestions seem radical, outlandish, and impossible. But who would have thought at the time Dred Scott was written, when it was illegal in many states to teach a black child to read, that integration in education would be the law of the land? Who would have thought that when Plessy v. Ferguson was written that one day the federal government would pass laws which forbid segregation in the smallest of restaurants, and forbid discrimination in the sale of a one family house? Ideas have a way of living a life of their own, and once a concept takes hold their is no telling where it will lead, or what the results will be."

fmv ☺





# OLIVE OIL

Cooper, in an article on working wives and the tax law, begins by "conceding" that the tax law is favorable to women in some respects. I would contest the word "conceding," because, as Cooper next indicates, these "favorable" provisions of the IRS Code are protective of woman who are non-income producing housewives. Cooper points out that the tax law does more than reflect the basic set-up of society, he writes "its provisions have a powerful effect in assuring that the expectation will be fulfilled by giving preferred tax treatment to woman who are homebodies and

penalizing those women who wish to work. Whether or not it was planned that way, the tax law tends to put women in their place at home and keep them there." (Emphasis mine.)

Professor Cooper goes on to cite specific situations and examples that are not within my scope here. One important point he makes in an example is that when a wife goes to work, expecting to earn maybe \$5000 for the year, when she subtracts home-care cost, transportation and incidentals (all reasonably low estimates) she is left with about \$2000. She gets no tax reduction on this expenditure and since her income is added onto her husband's, she will have to pay \$1,366 in taxes. (p.71, supra) How nice, \$634 for a year's work. This sad situation requires remedies. Men (and women) will not stop thinking of wives as assets, and women will not begin to understand themselves as economically capable until all the incidentals of a master and slave relationship are wiped out. Among these incidentals, the badges and indicia, then, we can count the tax laws.

There are always the angering (disheartening?) statistics to consider, which prove even when women are equally educated they receive lower pay. While almost  $\frac{1}{2}$  the women of our nation work, only 3% earn over \$10,000, as compared with 23% men. (These figures are from the Women's Lawyers Journal, vol.56, #1, Winter 1970, in an article written by D.L. Hollowell). And although women as of 1970 occupied over 40% of the white collar positions, less than 1 in 10 management positions were filled by women. (And 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 authoritatively inferior, emotional, irrational, or even, albeit they work their main place is at home, at husband's side; women are fulfilled at home and not at the office; they do not need promotion, as a man does. Notice, int-

Classic biases are strikingly similar to racist biases: blacks are inferior; emotional, primitive, child-like. Blacks are separate but equal; back of the bus syndrome; the con- celled Negro shuffling along. How similar, the deferential "yes,uh!" and the flattering "yes, dear!" Back to the statistics: the Equal Employment Opportunity Commission's figures demonstrate, according to Attny. Hollowell (a regional director of said commission) that even within the same occupational classification, women earn considerably less than male co-workers. And in our own profession, which ought to be providing an example of justice in operation, women constitute 2% (Rutgers Law Review, op.cit., p. 57). And when women attorneys are hired, they receive the "backroom" work, the research, the more "feminine" type of work. And woe befalls the woman who does manage to transcend the classifications! Like the "uppity nigger" (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 men to put her down; she dares to win), or a female chauvenist ("Don't you see, you've gone to other extreme, my dear." - meaning let this

man explain to the woman, making sure to address her as a woman, as woman possessed by the man speaking.) 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 thinks it odd, or sick (in point of fact, we all laugh) when a person states: "whew! she's got a pair tough as nails!" - Thereby actually evincing his own very basic fears of inadequacy. In other words, in mental terms, a professional woman is kept coming and going. Either 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 hiring and advancement discriminations. For only when the badges and indicia of woman's slavery are cleared out will the next generation grow up unbiased. There are other complaints incidental to work, such as loss of seniority upon leave for giving birth (query: why aren't women reimbursed for this valuable contribution to society? Like social security benefits -- because childbirth is seen - and used - as a way to keep women at home): protective legislation preventing women from the right to earn overtime; insurance benefits that are predicated on "head of household" requirements; labor management agreements excluding women as wage-earners; ad infinitum, ad nauseum.

Furthermore, the woman professional will have a tougher time in first getting the career jobs. Besides being judged on their physical at-

to answer intimate questions on attitudes on marriage, children, birth control, and what they plan to do about these things. Prospective employers allegedly want to cover themselves in case the employee takes off to have a child, or get married. In reality, this serves to remind a woman that she will be considered a second class worker.

All the complaints I have listed are results of our society's structure. The patriarchal foundation to this structure is where the focus of understanding and change must really concentrate.

Women find it more difficult to attain the qualifications necessary for equal employment. Some of the reasons:

- 1- Educational institutions' unequal treatment: both real and de facto.
- 2- Society's pressures to keep women at home, including the physical realities:
  - a- lack of sufficient awareness and availability of birth control methods
  - b- difficulties in obtaining safe abortions- once next to impossible, now still difficult, and probably only open to women with money.
  - c- non-existence of good child-care facilities, either free or inexpensive.

Then there are the criminal punishment inequalities. These work two ways: in defining the crime and the criminal and in terms of sentencing. The most obvious example for the former way is the case of prostitution. The prostitute, instead of being viewed as just another career, or a victim (handing over her money to the man who "protects" her) is viewed as a criminal. The man involved, the customer, may not be punished at all, or very lightly compared to the woman. And sociologically, the man does not suffer at all, while the woman is branded; the name for her job is used as a curse, a nasty insult. The illegality of prostitution may or may not reflect a cultural disapproval and disgust of sex; but why are women declared to be the guilty parties? Because women are responsible for sex, just as they are responsible for children; sex is their field, calling, their definition. Since women are responsible, they are liable to guilt; to be shunned in society and declared criminal in our legal system. In terms of sentencing, a recent BAD article brought out some of the oppressive practices of our criminal justice system in Mass. There is only 1 prison for women and it works on an indeterminate sentencing system; as compared with a judge's choice on where to send a male convict. There were other very interesting complaints of the female prisoners, like physical treatment, abuse (including rape) by male guards, etc.

Rape is another topic BAD 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 nec-