

soundoff continued

Rape's 'gray areas' examined

You may not argue with me when I stress that sanctity of the body - the right to control one's body and to defend it - is a fundamental right. Let me remind all opposed that the Criminal Code entitles you to physically defend yourself against an assault and when the assault or threat of assault appears deadly, to kill another human being in self-defense. If rape victims were equal or superior matches for their assailants there would undoubtedly be fewer rapists.

So let's keep this fundamental right in mind and talk about the classic "grey area" example. A man and a woman meet at the Cosmo. They leave together and after a quick drink at his place begin to make out. After 15 minutes and several pieces of clothing are removed the woman quietly says 'no' and attempts to disentangle herself - or perhaps she only offers passive resistance.

At this point both parties could be under a mistake of fact. The man could think that she is consenting and the woman could think the man knows she's not consenting and is going to rape her. So if the man continues and does, in effect, have sexual intercourse

without consent, he has, if charges are laid, a strong defense in an honest, although mistaken belief that she was consenting. The woman has the right to defend herself because the man is confused and doesn't realize she is saying no. The issue is clearest right at this point - why do we require the woman to say no - doesn't she have a fundamental right which requires that she consent, that she say yes.

I've received a lot of opposition recently, directly on this point and I'm amazed at it. Personally if I were in the woman's position and I was my same 6'2" 200 lb size, I would have no qualms about knocking the fellows head off. I see that as exercising a right and if I am unable to do so I would expect the legal system to operate so as to protect my rights because *if I'm not saying yes, isn't it obvious that I'm saying no.*

The legal problem rests with charging and convicting a fellow who was unfortunate enough - or perhaps stupid enough to get caught in a situation like this. Professor Vesteeg and Ms. Good brought up this particular point in their letters. If the fellow can prove that he honestly believed the

woman was consenting or, in other words, that he was under a mistake of fact - he is entitled to be acquitted. Ms. Good's opinion differed from Prof. Vesteeg's correct view of extant law in that she felt that a man shouldn't be acquitted on a basis of mistake of fact if that mistake was unreasonable. She urged support of Mr. Robinson's private members bill which would amend the Criminal Code so as to require that an honest mistake be reasonable if the Accused is to escape liability in a rape case. At present, an accused is entitled to acquittal if it is found that he was honestly mistaken as to consent regardless of how unreasonable that belief is.

Rape is possibly the most serious crime in terms of the social, psychological and emotional effects upon the victim. It is the only crime which has, as John M. Robinson concluded in a study of crime, shown a clear tendency to increase in incidence over the past century. It is the only crime which is under-reported to such an extent that the police hear about three out of every 10. It is also one of the few crimes which leads to a prosecution which is usually as hard on the

victim as it is on the accused and sometimes even harder. And it is a crime sanctioned with the highest possible penalty in the Canadian Criminal Law - the possibility of life imprisonment.

What we're really talking about when we mention rape is a serious social problem - one which requires a lot of consideration and hopefully, some sort of action. The issue may be stated as 'whether rape is a serious enough social problem or the right to control one's body important enough to warrant a change in the Criminal Code.

I can well imagine the reaction from my fellow students when I interpret the present section of the Criminal Code to read that 'a woman has to consent to extra-marital sex if it's

not going to be rape." There's an important human right there that demands protection against assumptions, lack of care and stupidity. Rather than impose a duty on the female to make sure her non-consent is being understood why don't we require that a man make sure there is consent.

I believe that Mr. Robinson's bill may have this effect and while it wouldn't have the extensive positive impact of Bill C-52 C which would have incorporated rape into a new charge of aggravated indecent assault, it's moving in the right direction. Just remember, your fundamental right and the fact that we, through parliament, make and change law. Think about it.

Peter Falk

Label upset over poor coverage

Dear Joey:

I would like to comment on what I considered to be very poor coverage in your paper on the recent AUAA Mens Basketball Championships held March 6 and 7 at the AUC.

For your information the AUAA Basketball Championship were tremendously successful and extremely exciting even though our own Raiders were eliminated on Friday evening. This tournament produced probably the best Basketball ever played in the City of Fredericton.

Not only do I not understand why the front cover on Friday

March 6 contained a Hockey picture on the day of the opening of the tournament (the Red Devils had finished their season February 27) but again this morning there are no pictures and no articles on the Tournament and we did buy a 3" x 7" ad in your paper for the project.

In my opinion, a disservice was done to our Red Raiders to your readers, to the competing schools and to the centre; would you kindly explain the situation at your early convenience - thank you.

Yours very truly,
Gordon A. Label

Sorry about rape letter

Dear Sir:

I feel I should apologize for the letter which I wrote for the February 27 issue of the Bruns regarding the Pappajohn Rape Trial which was subsequently shown to be erroneous by Prof. Hago Versteeg. I would also like to make an effort to justify my position in this matter.

Needless to say, I was very surprised to receive a telephone call from Prof. Versteeg, telling me that, not only had the accused in this trial NOT been freed, but that many of the arguments involved in the case were inaccurately presented. This information came as quite a shock because

of the fact that the letter which I sent to the Bruns was taken practically word-for-word from a sheet distributed to my Church congregation by my Minister, who had received his information from a National Christian Women's newsletter. So, therefore, I had no reason to doubt its accuracy. It is mystifying that this misinterpretation of a court decision could ever have arisen.

In any case, I would like to thank Prof. Versteeg for bringing it all to my attention and to say that, through all of this mess, there is still a valid point to be made about rape trials. That is, that after having proved that a woman did not give

consent to having sexual intercourse with an accused rapist, it must also be proven that the accused had the "guilty mind" - that he knew she didn't consent. This decision is based, not on what a "Reasonable Person" would think, but upon what the accused himself, really did think. Therefore, "Honest Belief" is a defense.

Now, if you feel that the law should be changed with regard to this point, do continue that letter to Sven Robinson (MP) which you started writing two weeks ago.

Sorry!
Linni Good

University closure

(Continued from p. 8)

either students or professors can afford to waste time.

It is no joy to drive in such a storm, but be assured that it is even less of a joy to spend what for me totalled one hour walking in it - the city bus service is totally unreliable in such weather.

I realize the university ad-

ministration is responsible to the community for not closing the campus without just cause. If these storms occurred often, one could understand their reluctance. However, unless my memory fails me, Tuesday was only the second day this season that this has happened. When the public school system

feels justified in closing down, I think the university is justified in doing likewise. Let's face it - nature is bigger than we are, and I don't think it would hurt us to humble ourselves and admit it when we are obviously defeated.

Peggy Grasse

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