A Response to The Devil's Advocate — *Ronwin* and *Bonham*

In a recent issue of *The Bulletin*[1] the Devil's Advocate lamented that law school graduate Ronwin was excluded from admission to the Bar because of "long-standing personality traits [which indicated] an inability to get along with authority figures under situations of minor stress and conflict." The Supreme Court of Arizona found that "on different occasions he became enraged during discussions of academic matters and made serious threats of physical violence toward certain individuals . . . he appears mentally unable to deal reasonably with the type of social interactions involved in dealing with clients, other members of the Bar and the public." The Devil's Advocate expresses concern that if the Arizona decision is allowed to stand, "non-conformists and unorthodox characters" may have no place in the professions of law and psychiatry, traditionally the magnet for the gadfly. Indeed, he himself with his reputation as a challenger and iconoclast of Socratic proportions ("old curmudgeon," as he modestly puts it) might be in jeopardy of revocation or suspension of his professional licenses.

I don't believe the Devil's Advocate has anything to fear. A certain standard of decorum and respect in the legal and medical professions is fundamental to a scheme of "ordered liberty." If Arizona psychiatrists were called to advise the court in the case of Ronwin, they are to be commended for keeping the focus on Mr. Ronwin's unprofessional conduct rather than obfuscating the issues by finding that his personality deficiencies rose to the level of "medically recognized and categorized mental disorders." God knows DSM-II does, and DSM-III will, give the illness-diagnoser ample opportunity to label Ronwin as sick, probably treatable and, certainly in the eyes of many, not responsible for his conduct. We are not talking here about dissent, whether inspired by Freud, Szasz or Blackstone. The right of dissenters, and even iconoclasts, to freedom of expression always should be protected and fostered. But law students and psychiatric residents in training are a distinctly different kettle of fish . . . and a standard of character and performance must be required of them as a matter of maintaining an ethical plane and a dignity expected by a society of members of an honorable profession. Many colleagues in AAPL will have no difficulty recalling the occasional expulsion of incorrigible Ronwins in psychiatric residency programs and may wonder why the Devil's Advocate encouraged his readers to "Compare Dr. Bonham's Case," which was decided over 365 years ago.

Having satisfied myself that the Devil's Advocate is not in peril, what I do feel ought to be protested is his implication that he would have supported the Arizona Supreme Court's decision had Ronwin's objectionable behavior been due to "personality defects" which *did* rise to the level of a medically recognized and categorized mental disorder. I am really bothered by this.

While I do not believe Ronwin should be admitted to the Bar because he is not responsible for his misconduct resulting from a medically recognized mental disorder, neither do I believe he should be excluded because of behavior due to a mental disorder. He is either fit to be admitted to the Bar or not fit. The Supreme Court of Arizona after careful deliberation concluded he was unfit. I respect its decision.

The Supreme Court of the United States is mot unlikely to find a violation of due process of law in the *Ronwin* case judging from the strongly worded opinion in the recent case of *Board of Curators of the University of Missouri v. Horowitz,*[2,3] albeit another one of those brinkmanship 5:4 decisions of the Burger Court. The Eighth District Court of Appeals had held that because dismissal from medical school would result in her being stigmatized so that she would be unable to continue her medical education or obtain employment in a medically-related field, Ms. Horowitz was entitled to a hearing before the school's decision-making body.[4] In overturning this ruling Justice William Rehnquist, writing for the majority, stated that "a graduate or professional school is, after all, the best judge of its students' academic performance and their ability to master the required curriculum." Charlotte Horowitz (B.A. from Barnard, and M.A. in psychology from Columbia) was dismissed from the medical school five days before she was to have been graduated in 1973. A witness had testified in a federal court hearing in 1975 that she had "bad practices, such as sniffing her nose in public . . . Charlotte had an ill-kempt hairdo. She was overweight. She did not shave her legs. She also wore a yellowed lab coat. It never smelled bad, but because of these physical characteristics, plus a slight lisp and protruding incisors . . . she was just sort of shunted away in most people's minds." "School officials said the reasons for her dismissal were broader than personal hygiene and included deficiencies in 'clinical competence, peer and patient relations . . . and ability to accept criticism.' "[5] The majority held that universities and colleges do not have to provide students with hearings before expelling them for academic rather than disciplinary reasons.

But back to *Dr. Bonham's Case,* which my piqued curiosity caused me to cull from the archives, 8 Co. Rep. 113b, 77 Eng. Rep. 646 (1610). The relevance to *Ronwin* escapes me, but I shall forever be grateful to the Devil's Advocate for citing this case, which certainly touches on many fundamental issues related to the practice of medicine. For one thing, physicians with the courage of Dr. Thomas Bonham are sorely needed today if we are to extricate our state medical practice licensing laws from the quagmire of absurd restrictions so inimical to the practice of our specialties. Dr. Bonham, "a doctor in philosophy . . . who had also taken his degree of Doctor of Physic in the University of Cambridge" in 1595 had set up practice in London in 1606. Credentialled as he was, he did not choose to subject himself to re-examination by the President and Censors of the College of Physicians of London. He was accordingly fined and imprisoned for seven days. Over the next three years his case "was often argued by the Serjeants at Bar in divers several terms," until finally in 1610 it came before the Court of Common Pleas, presided over by none other than Chief Justice Sir Edward Coke (well known to forensic psychiatrists as the jurist who postulated that no crime could exist without a felonious intent and that an

insane person lacking in mind and reason could not form a felonious intent). The Court held that the censors had the power to fine and imprison "everyone from practicing physic in London without license from the president and college" with the exception of graduates from the universities (then Oxford and Cambridge) unless the latter do so "for ill, and not good use." For "the university is *alma mater,* from whose breasts those of that private college have sucked all their science and knowledge." Thus Dr. Bonham was fully vindicated, and if the precedent of that case were to be relied on, a graduate of Harvard Medical School would hardly be likely to encounter any obstacle to establishing a practice in Florida or California without further examination.

Dr. Bonham's Case abounds with explications and elaborations of principles which are of immediate relevance to modern American political, legal and medical professional life. One factual gem particularly would have warmed the heart of Sigmund Freud, enjoyable and rewarding as he found it to take one or two patients along with him for uninterrupted analysis when he vacationed in the mountains. According to a law passed in 1524, cited in *Bonham,* the Censors of the College of Physicians were prohibited from fining any unexamined (unlicensed) physician who practiced in London for less than thirty days:

> ". . . and the law hath great reason in making this distinction for divers nobles, gentlemen and others, come upon divers occasions to London, and when they are here they become subject to diseases, and thereupon they send for their physicians in the country, who know their bodies and the cause of their diseases; now it was never the meaning of the Act to bar any one of his own physician; and when he is here he may practice and minister to another by two or three weeks, etc. without any forfeiture; for any one who practices physic *bene,* etc. in London (although he has not taken any degree in any of the universities) shall forfeit nothing, unless he practices it by the space of a month; and that was the reason that the time of a month was put in the Act."[6]

I will be happy to send a copy of the full report of *Dr. Bonham's Case* to any interested reader.

ABRAHAM L. HALPERN, M.D.
Clinical Associate Professor of Psychiatry
New York Medical College

References

1. Bull Amer Acad Psych and Law, 5:3, 371-373, 1977
2. Amer Med News, March 13, 1978, p. 11
3. *Board of Curators of the University of Missiouri v. Horowitz,* 98 S.Ct. 948 (1978)
4. *Horowitz v. Board of Curators of the University of Missouri,* 538 F.2d 1317 (1976)
5. Amer Med News, *op. cit.*
6. *Dr. Bonham's Case,* 8 Co. Rep. at 117b, 118a, 77 Eng. Rep. at 652 (1610)