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Juro Religious Showdown In Egypt

by T. W. Lapin

The following is an update of trends in Islamic law explored by the author in articles which appeared in the November 1975, and March and April 1976 issues of The Forum.

“Al-habl’ala al-jarar” is an Arabic expression meaning, literally, “the rope is on the tug.” It is used to describe a situation in which one event has set off a chain of subsequent events in a kind of tug-of-war with no foreseeable end. The Arab-Israeli conflict is one such rope-tugger. Another is the conflict between the conservative forces of traditionalist Islam and those who would bring Arab judicial systems into step with twentieth-century Western style legal thought. The author explores the later of these conflicts.

The consumption of alcoholic beverages was forbidden to Muslims by their religion—and hence by law—from the beginning of Islam in the seventh century A.D. Through the years this prohibition has often been winked at and even openly violated in many Muslim countries. However, today liquor is still absolutely outlawed in Libya and in all states of the Arabian Peninsula. Egypt was for many years an oasis in the “dry” expanses of the Arab East. As the ancient Egyptians are believed to have brewed as many as seventeen different varieties of beer, it is possible that the “Land of the Nile” was the birthplace of that rich, foamy nectar. Today, large brown bottles of amber-colored Egyptian beer continue to emerge from breweries bearing names like “Stella” and “Helwan”. However, Egyptian nationals may no longer imbibe their soothing contents. The Volstead Act has gone international!

Islam is the state religion of the Arab

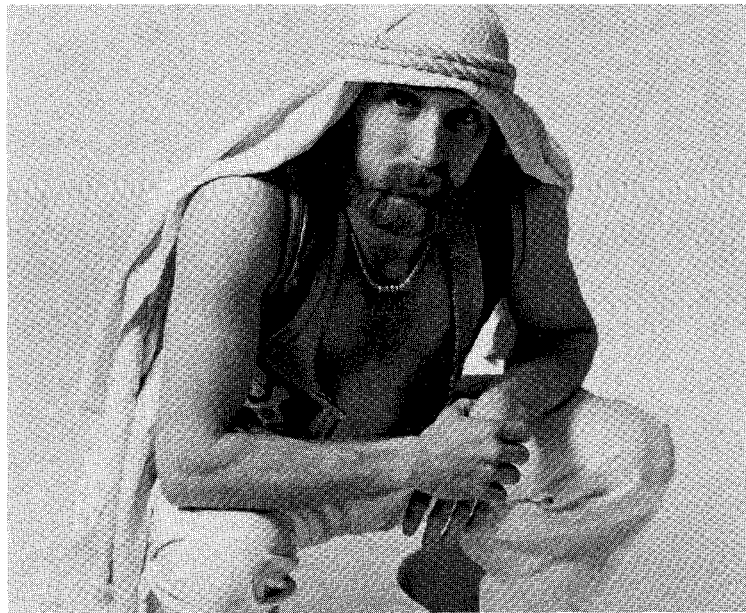


photo by Chris Michael

Republic of Egypt. Conservative religious elements in the Maglis al-Umma (Egypt's Parliament) recently succeeded in having enacted a law banning the consumption of alcohol by Egyptians. This move is seen by many as an attempt by religious leaders to reestablish their control over the Egyptian masses, who for several years have been exposed to modern Western social standards and ideas, many of which conflict with the precepts of traditional Islam. The urban middle class especially has been affected by liberal trends in such areas as women's rights and Europeanized modes of living, and it is presumably at this group that the recent prohibition law was directed. The lower classes in Egypt have historically formed the most religious element of Egyptian society. As such, any government attempts to re-route the moral standards of that social stratum toward teetotaling would be unnecessary. In this writer's Egyptian days (during the early and middle '70's) one was not allowed to carry even bottles of mineral water unwrapped in the streets for fear of offending the religious and social mores of those who might mistake the innocent flasks of Evian and Vichy for the hard stuff.

The liquor law may soon prove to be merely the tip of a larger iceberg of impending legislation aimed at the restoration of traditional Islamic law in Egypt.

The *Jordan Times* reported in its July 22nd issue a statement made by the Egyptian Minister of Religious Affairs, Muhammad Hassan el-Dahaby, which would seem to indicate the prevailing sentiment of the Arab Socialist Union, Egypt's only political party: “Our social and economic problems will be solved only by implementing Islamic law.”

Other prominent Egyptians interviewed by *The Jordan Times* responded in a similar vein. The Grand Imam Abdel Halim Mahmoud, rector of the 1007 year old theological school, Al-Azhar University, is reported as saying: “There would be no theft in this country if one or two thieves had their right arm and left leg chopped off, as prescribed in the Qur'an.” Conservative parliamentarian Ismail Matouk opined: “We have to go back to Islamic laws and Qur'anic teachings of morality. There is growing violence and corruption of morals in the country. They can only be eliminated by implementing religious teachings.”

Bills are either being prepared or are already set before Parliament which include demands for laws which would have a Muslim flogged eighty times for drinking alcohol or ten to twenty times for being seated at a table where others are imbibing. More drastic suggestions are for having adulterers stoned to death, highway robbers crucified, forbidding male hairdressers from combing

women's hair, and prohibiting actors from kissing actresses in films.

The shift to religious conservatism in Egypt has delayed consideration of certain important bills previously submitted to Parliament. Among these is a bill which would give a Muslim woman the right to initiate divorce proceedings if her husband has taken a second wife. This bill would also make it more difficult for a man to summarily divorce his wife. Although the bill was submitted to Parliament two years ago, it was locked in controversy until Al-Axhar loyalists capitulated last February. A vital bill which has fallen victim to the current rope-tugging is that which would provide an effective birth control plan for Egypt, a seriously overpopulated country where more than one million babies are born each year. Islamic teachings stress that children are a gift from God, thereby impeding passage of the population-planning legislation.

Traditional Islamic values may also form a gentle barrier to economic progress in Muslim countries. A Muslim factory worker is well within his rights in stopping the production line in order to perform his prayers at the proper times (as many as three of the five prayers incumbent upon the devout Muslim may fall during the workday). Laws attempting to restrict one's right to "prayer breaks" would meet with insurmountable resistance from Egypt's faithful millions.

Yet some voices are being raised in opposition to the present trend toward the establishment of a theocracy in Egypt. One of Egypt's most talented writers, Naguib Mahfouz, has stated that: "Religion is for God and the country for man. Islamic law was instituted centuries ago when state and religion were identical. Those who clamor for its reinstatement now should remember that we are a Socialist country." Mahfouz went on to blame the ills of his country on the "gap between crippling poverty and extravagant wealth," and stated that people would not steal if they had all they needed.

Saad Eddin Ibrahim, a liberal Muslim sociologist, has summarized the view of many of his colleagues: "If we have to live in the twentieth century with the

mentality of the seventh [century] we can forget all about progress. Had the Prophet [Muhammad] lived in our age he would have modified the laws to match our times. The return to outmoded religious practices is an escapism from the frustrations of [the] modern age."

Thus, the rope continues to be on the tug in the struggle between liberal and conservative forces in Egypt, but it would appear that the conservatives are tugging just a bit harder.

The Right of a Corporate Director to Inspect Records Under Maryland Law

by William Wilburn

INTRODUCTION

What are the rights of a director of a Maryland corporation to inspect corporate books and records?

While both the Maryland General Assembly and the Court of Appeals have remained silent as to the exact nature of these rights, inferences can be drawn from relevant statutory and case law which indicate that a director of a Maryland corporation does have an implied right to inspect corporate records. Other jurisdictions have limited what has been frequently, but somewhat erroneously, termed the "absolute" right of a director to examine records.

Before discussing any rights a director may have to inspect records of a corporation, it will be useful to consider a few preliminary issues. What constitutes "records," why are they important, and who is charged with their physical maintenance and custody?

A Maryland corporation, by statute, is required to "keep correct and complete books and records of its accounts and transactions and minutes of the proceedings of its stockholders and board of directors." MD. ANN. CODE, Corp. & Ass'ns Art. §2-111 (1975) (hereinafter re-

ferred to as the "Maryland Code" or the "Code" and cited as CA). Furthermore, the Code specifies what is to be considered a "proper" keeping of these and other records. CA §1-402. Because the wording of the Code, CA §2-111, seems intentionally all-encompassing, it is safe to say that examples of items included in "accounts and transactions" under that section would be documents relating to contracts entered into by the corporation, stock issuances and balance sheets, wage charts, etc. Courts use such non-statutory, generic words as "accounts", "books", and "records" to mean basically the same types of documents envisioned under the Code, CA §1-402. There is no discernible conflict between the Code and the frequently used common law synonyms as to what is a "record". Thus unless otherwise specified, "records" refers to practically any corporate document bearing on the corporate business.

Such records are important because they are essential repositories of information about the corporation which must be available to and consulted by its directors if they are to discharge their statutory and common law duties. Unlike a stockholder, whose rights to inspect, and then only as to certain records, are explicit, CA §§2-512-13, the director's right to inspect is left undefined. A director is held to a strict standard of care in the performance of his responsibilities in connection with the corporation and its stockholders. Compliance with this high standard is difficult, if not impossible, without access to corporate records.

Finally, as a logistical matter, the question arises of who maintains custody of these corporate records? Under Maryland law, since the "corporation" must keep books and records, CA §2-111, and since the directors may exercise all the powers of the corporation, CA §2-402, it would seem that this vests the directors with unqualified possessory rights, implying a right to inspect the same records that they may possess. While this is at best an implied statutory interpretation in support of the director's right to inspect, it does not provide an adequate summation of the reasons for, and the limitations of, such rights.