

REIGNITING REVOLUTION:
AN ATTEMPTED RAPE, A JUDGE'S COMMENTS,
AND THE RESULTING FEMINIST FIRESTORM

Sara Elaine Jackson

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Faculty Advisor: Dr. Christine K. Erickson

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Just after midnight on January 6, 1978, having spent the night before visiting a series of local nightspots with a female friend, 27-year-old Melody Lehman went back to the Fort Wayne apartment of 36-year-old Stephen J. Hanic, Jr. after meeting him while at the Pink Panther lounge.¹ They spent the next several hours “necking” and talking before Hanic allegedly refused to drive Lehman home or take “no” for an answer, and proceeded to assault her.² At one point, while Hanic was distracted, Lehman grabbed his telephone and called the operator, who traced the call and alerted 911 when she heard sounds of an altercation on the other end of the line.³ Officers arrived on the scene around 6:30 a.m., where they found Lehman bruised and scratched; Hanic was arrested and charged with attempted rape.⁴ The case would be heard almost exactly one year later.

A little over two weeks after these events, Allen County Circuit Court Judge Hermann F. Busse announced his intent to file a bid for re-election to the post he had held since his

¹ *Hanic v. State of Indiana*, Third District Court of Appeals (1980). Docket No. 3-779A186; *State of Indiana v. Stephen Hanic*, Allen County Circuit Criminal Court (1979). Docket No. CCR-78-8.

² *Hanic v. State of Indiana*; *State of Indiana v. Stephen Hanic*.

³ *Hanic v. State of Indiana*; *State of Indiana v. Stephen Hanic*.

⁴ *Hanic v. State of Indiana*; *State of Indiana v. Stephen Hanic*.

appointment in 1971 and initial re-election in 1972.⁵ Known for his comparatively casual courtroom and occasionally “salty” language, Busse was a Northeast Indiana native who had served in the Marine Corps and practiced law in Fort Wayne for nearly thirty years prior to his appointment to the bench.⁶ At the time of his announcement, the Allen County Bar Association had recently recommended the staunch Republican for retention; he went on to win by just over 6,000 votes against his Democratic opponent in the general election, held in November 1978 and described as a “Republican landslide” in local media.⁷ In the course of the intervening period, *State of Indiana v. Stephen Hanic* was amongst the many cases assigned to his docket. It was scheduled to go to trial in January 1979.

The last week of November 1978 was Rape Awareness Week, a national awareness event that included a local ‘Take Back the Night’ walk in which more than 100 women participated; the event would become, twenty years later, a month-long observance known as Sexual Assault

⁵ "Judge Busse Announces Plans for Reelection Bid," *The Journal-Gazette*, Jan. 23, 1978.

⁶ Ibid.; "The Legal and Judicial Races," *The Journal-Gazette*, Nov. 04, 1978.

⁷ "Judge Busse Announces Plans for Reelection Bid."; Jerry Shackelford, "Busse, Duemling Remain in Office," *The Journal-Gazette*, Nov. 08, 1978; "The Republican Landslide," *The Journal-Gazette*, Nov. 09, 1978.

Awareness Month.⁸ An opinion editorial, entitled “The Truth About Rape,” appeared in the Fort Wayne Journal-Gazette on November 30 of that year, which discussed the Fort Wayne area’s annual statistics related to sexual assault. With approximately 70 cases reported up to that point, only a handful of arrests had been made.⁹ As part of the schedule of area events taking place during Rape Awareness Week, Dr. Pauline Bart of the University of Illinois spoke about her research in the area of rape avoidance. During the course of her presentation, she talked about the need to view rape as a “societal problem” rather than an individual one.¹⁰ As quoted in a piece that appeared the next day in the Journal-Gazette, Dr. Bart believed that “a broader definition of rape, which would not look at the victim as a possible accessory” was required.¹¹ A narrow characterization of rape provides a favorable environment for male sexual aggression, she contended; this “culturally acceptable . . . definition of rape allows men to continue aggressive behavior.”¹² One might assert on the basis of this evidence that the issue of rape, as well as

⁸ Debra Rinard, "'Take Back Night' Walk Draws 100 Participants," *The Journal-Gazette*, Dec. 2, 1978.

⁹ "The Truth About Rape," *The Journal-Gazette*, Nov. 20, 1978.

¹⁰ Carol Schaal, "Rape Definition Limited, Researcher Believes," *The Journal-Gazette*, Dec. 01, 1978.

¹¹ *Ibid.*

¹² *Ibid.*

auxiliary concerns, were of particular local interest at this time and easily commanded the attention of many residents of Fort Wayne.

The issue of sexual assault and its surrounding concerns were also being discussed at the national level at this time, especially in the wake of the case of Oregon couple John and Greta Rideout. Mrs. Rideout had accused her husband of beating and raping her repeatedly during the course of their marriage, but after her husband was found innocent at the end of his trial in

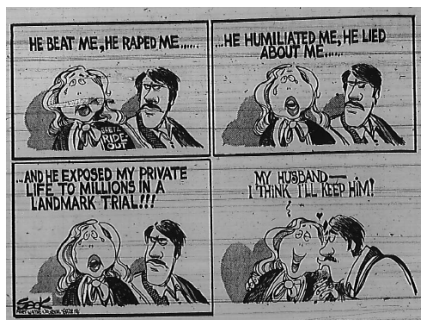


Figure 1, Source: *The Journal-Gazette*.

January 1979, the two were reconciled.¹³ Humorist Art

Buchwald, in his syndicated column on the twenty-first of that month, drew a comparison between the Rideouts and fictional characters Rhett Butler and Scarlett O'Hara; he

observed that his own wife had suggested that the scene the majority of women enjoy most in *Gone with the Wind* is when Rhett carries Scarlett upstairs, refusing to be turned away from her bed.¹⁴ The implication here is clear: just as Scarlett is shown lounging blissfully "in a rumpled

¹³ Art Buchwald, "Rideouts a Little Like Rhett and Scarlett," *The Journal-Gazette*, Jan. 21, 1979.

¹⁴ *Ibid.*

bed with the happiest smile . . . on her face” in the next scene, some women must desire a man who will not take no for an answer.¹⁵ A cartoon from *The Journal-Gazette*, reproduced in figure 1, drove the point home even further, painting Mrs. Rideout as, at best, a fickle female and, at worst, a masochistic idiot.¹⁶ Far from being a meaningful test case in terms of expanding that aforementioned narrow definition of rape, the Rideout case proved to be a comedy of errors that served only to underscore the absurdity many saw in the suggestion that any act that might occur within the bounds of holy matrimony could be construed as rape.

It seems fair to suggest that, by the time that Judge Busse called the courtroom to order on Wednesday, January 10, 1979, circumstances largely unrelated to the Hanic case had created an environment wherein rape was at the forefront of discussion both locally and nationally, as outlined above. An otherwise typical case heard in an otherwise typical fashion, *State v. Hanic* was unremarkable except for two key points: the aforementioned highly charged atmosphere into which the case figured, given the relevance of questions surrounding societal definitions of rape; and the editorial comments uttered by Busse in the course of his ruling. Announcing his decision

¹⁵ Ibid.

¹⁶ Steve Sack, "He Beat Me, He Raped Me . . .," *The Journal-Gazette*, Jan. 14, 1979.

to the find the defendant guilty of a lesser charge of battery, the 67-year-old avid fisherman chose to put his thoughts into the metaphorical language with which he was most familiar, describing Lehman's behavior on the night in question as "trolling."¹⁷ He dismissed the charge of attempted rape against Hanic, noting that while he did not "condone rape by any means," he believed that the blame for what had transpired lay with both Hanic and Lehman; essentially, as the story in the following day's *Journal-Gazette* would put it, Lehman had "encouraged the attack" by returning to the defendant's home and "necking" with him.¹⁸ While the rap of his gavel may have ended the day's proceedings, the sentiments he expressed that day began to reverberate throughout the community.

Two days after Busse made his comments, the backlash began. In an opinion editorial, the local paper suggested that an apology was in order; "Otherwise, Judge Busse belongs on a northern Indiana lake trolling for bass, not in the Allen County Circuit Court."¹⁹ Mentioned therein is Indiana's "rape shield law," closely related to the federal Rape Victims Privacy Act,

¹⁷ Jerry Shackelford, "Rape Defendant Convicted of Battery," *The Journal-Gazette*, Jan. 11, 1979.

¹⁸ Ibid.

¹⁹ "Judge Busse on Rape," *The Journal-Gazette*, Jan. 12, 1979.

which makes it illegal to drag “a woman’s sexual history” into evidence against her character within the scope of a rape case, as Busse was deemed to have done with his editorializing.²⁰ The same day, an article in the local section described the reactions of spokespersons for area women’s groups, including the Fort Wayne Feminists, Rape Crisis Center, and Women’s Bureau.

Appalled at the metaphor that drew parallels between women who frequent bars to meet men and “baiting a hook and trying to walk away from it,” these women found Busse’s statement “outrageous;” Joan Uebelhoer, a prominent member of the Fort Wayne Feminists, described Busse’s logic as “caveman thinking.”²¹ An official statement by the Rape Crisis Center expressed significant concern: “At best, [these comments] display shocking ignorance about what rape is. At worst, they grant men license to rape.”²² Words were being countered first with words; soon, actions would follow.

The events of Hanic’s trial called to mind a similar incident in Wisconsin eighteen months earlier, when Dane County Judge Archie Simonson was removed from the bench

²⁰ Ibid.; Lloyd Shearer, "Rape Testimony," *Parade*, Jan. 14, 1979.

²¹ Nancy Laughlin, "'Trolling' Statement Riles Women's Groups," *The Journal-Gazette*, Jan. 12, 1979.

²² Ibid.

because he made similar comments in the course of hearing a widely publicized rape case.²³

Many area women, including Uebelhoer and her colleagues in the various women's organizations that existed in Fort Wayne at the time, decided that Busse's remarks must be a cautionary line in the sand and that Busse himself should serve as an example for any others in public office who might be tempted to espouse similarly antiquated beliefs regarding sexual assault. Endorsed by his peers and re-elected by his constituents only months before, Busse quickly found the tide of public opinion turning against him; he would shortly be the target of both political and legal challenges seeking to remove him from the bench. Although there had long been a dedicated and highly engaged activist network in the northeast Indiana area working towards the establishment and enhancement of rights for women, Fort Wayne experienced a marked resurgence of feminist activism in direct response to the watershed events of January 1979.

During the course of another winter, a century earlier, nationally recognized leaders from within the women's suffrage movement visited Fort Wayne and addressed rapt, enthusiastic crowds about the equality of the sexes. Mary Livermore, Anna Dickenson, and Susan B. Anthony spoke in February 1873 of the importance of self-reliance, ambition, and political

²³ "The Law: Rape and Culture," *Time*, Sep. 12, 1977.

representation, respectively; surprisingly, their appearances drew little controversy.²⁴ Given the popular conception at the time that there existed a direct connection between the temperance movement and women's suffrage, one might suppose that the rabidly anti-teetotaler, predominantly German-American residents of Fort Wayne would have vehemently opposed anything that might indicate a political shift towards anything related to prohibition.²⁵ The immigrant community traditionally had a very negative view of the shift in focus for women from traditional roles in the home had also curtailed involvement in the cause, but while it seems clear that male community leaders were continuing to exercise their control over the political machinery, "Fort Wayne women were gaining valuable experiences and building feminist networks that would serve them well in the future."²⁶ Trends toward more robust political and causal involvement on the part of the female population would continue in the Fort Wayne area throughout the ensuing three decades, as suffrage and temperance were joined or replaced on the

²⁴ Peggy Seigel, "Winning the Vote in Fort Wayne, Indiana: The Long, Cautious Journey in a German American City," *Indiana Magazine of History* 102, no. 3 (2006): 229.

²⁵ *Ibid.*, 236-39.

²⁶ *Ibid.*, 234.

feminist agenda by other concerns, such as child labor restrictions.²⁷ Despite the fact that several cultural factors made it difficult to reconcile the issue of women's suffrage for many of the German-American women of the area, feminist engagement may have been comparatively less political but was certainly no less vigorous for the women of Fort Wayne at the end of the 19th century.

This absence of direct political involvement was handily counterbalanced by the growing participation of women in the workforce, though, both across the country and in northeast Indiana. Following the visit of one activist, Myra Strawn Hartshorn from Chicago, increased awareness of the conditions faced by "women sweatshop workers" seems to have made the ground fertile for the discussion of the fundamental principles of modern liberal ideology and social justice concerns amongst the women of Fort Wayne.²⁸ Contentment and success were not going to be achievable merely through the attainment of voting rights; women at the turn of the 20th century were far more concerned about what they saw happening everyday in their own communities than they were with the notion of ticking a box on a ballot. Given Fort Wayne's

²⁷ Ibid., 235-44.

²⁸ Ibid., 245.

drastic commercial and industrial growth before and after 1900, the plight of the women and girls employed at factories like Wayne Knitting Mills seems part and parcel to the universal pains of technological and financial advancement.²⁹ But the conditions inside the factory, the ages (often under 16) of the women employed there, the 55-hour work weeks, the low pay – all of these factors pointed to exploitation, and the existence of this possibility created an environment in which local women’s groups felt that there was no workable alternative to getting involved in the campaign for a new labor law.³⁰ While the outcome of this effort was not an unqualified success in terms of rights assurances, there were improvements mandated by the bill that allowed for more protection of the women and children employed in these factory settings.

Hartshorn’s speech highlighted other issues relevant to the advancement of women in Fort Wayne; at one point she opined that one “can’t keep political power out of the hands of the educated class.”³¹ In keeping with the sentiments of Enlightenment thinkers and founding suffragists, most activists saw education as the key differential between the informed and the

²⁹ Ibid., 241-42.

³⁰ Ibid.

³¹ Ibid., 245.

uninformed, the powerful and the ignored. To that end, in the 1910s, the suffrage society and women's groups in Fort Wayne began offering classes for women that provided instruction in the organization and procedures of local government entities.³² The rationale seemed to be that any voice could be heard if one was aware of the appropriate mechanism through which one might be heard. In order to capitalize on their growing numbers and establish themselves more firmly within the political establishment, the women's groups in Fort Wayne began utilizing this information and exploring other avenues to power, while biding their time until the passage of the Nineteenth Amendment in 1920. In this period, the women of northeast Indiana overcame many obstacles related to cultural expectations in order to learn about issues, discuss solutions, and effect changes that would better their communities. They embraced larger concerns, such as environmental issues, and stayed focused on the continued improvement of resources for women in the area. One might argue that this 30-year stretch was the first "wave" of feminism in Indiana, a period in which the women of our area recognized the power of their collective influence and embraced the creation of the networks and organizations that would later work in their favor as they endeavored to achieve new feminist goals in the post-World War II milieu.

³² Ibid., 246.

Having looked briefly at the “first wave,” it seems appropriate now to discuss the “second wave” of feminist engagement as it pertains to the evolution of women’s rights concerns in Fort Wayne.³³ An examination of the development over time of Hoosier support for or opposition to the Equal Rights Amendment (ERA) brings to light many interesting points that illustrate the shifts (or lack thereof) in public opinion and political ideology that occurred between the successful fight for the vote and the fight for equal rights. History, it is said, repeats itself; this is evident in the parallels found in public opinion and response related to these two issues. With the suffrage movement, the close ties between those advocating for the right of women to participate fully as active citizens in the political process and those advocating for temperance resulted in polarized opinions towards both issues, which threatened the viability of each.³⁴ With the ERA, the early opposition (circa the amendment’s initial introduction in 1923) to the cause on the part of some women’s advocacy organizations served as the polarizer; many of these groups, such as the American Association of University Women, seem to have felt that the issue

³³ Erin M. Kempker, "Coalition and Control: Hoosier Feminists and the Equal Rights Amendment," *Frontiers: A Journal of Women Studies* 34, no. 2 (2013): 52.

³⁴ Seigel, "Winning the Vote in Fort Wayne, Indiana: The Long, Cautious Journey in a German American City."

at hand was not one of establishing rights, but rather eliminating discrimination.³⁵ Because of this distinction, there were women's rights advocates throughout the nation who believed the ERA to be a step (or several) beyond the relief actually needed.

Born the year after suffragist Alice Paul drafted the original amendment, Phyllis Schlafly is a Midwestern Republican author and lawyer who – as an outspoken opponent of the ERA – was responsible for the mobilization of the conservative base against the offending legislation.³⁶ Citing the value of traditional gender roles and the attendant special privileges afforded to women, such as dependent benefits through federal entitlement programs, Schlafly organized the “STOP ERA” campaign, where the added acronym stands for “Stop Taking Our Privileges.”³⁷ According to one scholar, “Once the ratification process began, the ERA was redefined into much broader terms by opponents in order to actively involve many subgroups of the population

³⁵ Susan D. Becker, *The Origins of the Equal Rights Amendment: American Feminism Between the Wars*, Contributions in Women's Studies (Westport, Connecticut: Greenwood Press, 1981).

³⁶ Mary Frances Berry, *Why ERA Failed: Politics, Women's Rights, and the Amending Process of the Constitution*, *Everywoman: Studies in History, Literature, and Culture* (Bloomington, Indiana: Indiana University Press, 1986), 84-85.

³⁷ Joan Hoff and Organization of American Historians, *Rights of Passage: The Past and Future of the ERA* (Bloomington, Indiana: Indiana University Press, 1986), 58.

in the conflict” over its passage.³⁸ One particular issue which proved particularly useful at riling various interest groups was the contention that “with equal rights goes equal responsibility,” including when speaking of military service and the draft. This potential change “was the most commonly mentioned objection to the ERA” in several states, and, to a great degree, served as the very source of distraction that Schlafly and her overarching cause would have benefitted well from.

The presence in Fort Wayne of women who had fought tooth and nail for recognition and respect – or who knew personally those who had done so – was something that many ignored once the question of the ERA had been settled insofar as Hoosiers were concerned. Despite geographic constraints and population limitations, Fort Wayne had successfully nurtured, through trial and triumph, a robust and responsive base of feminist activists. After a turbulent period, it seemed that a calm had settled in over northeast Indiana; post-ERA, there was quite obviously still a feminist presence in Fort Wayne, as was the case around the country.³⁹

³⁸ Janet K. Boles, *The Politics of the Equal Rights Amendment: Conflict and the Decision Process* (New York, New York: Longman Inc., 1979), 171.

³⁹ Kempker, "Coalition and Control: Hoosier Feminists and the Equal Rights Amendment," 69-71.

But the peacefulness of the day-to-day reality was arguably indicative of ebb in the pattern of engagement; the extant concerns of many activists were rather routine in comparison to the battle for ratification. Of course, all that would be necessary to spur another flow of activism would be a catalyst with the power to inflame emotion, suggest the necessity of involvement on principle, and clearly speak to an issue of great importance. Enter *State v. Hanic*, and the commentary of a certain circuit court judge.

By the Sunday following the hearing where Busse let the metaphor fly, there was a new organization, called the “Coalition for Justice,” whose primary aim was to bring about Busse’s resignation or removal.⁴⁰ Under the Indiana



Figure 2, Source: *The Journal-Gazette*.

Constitution, a judge may only be removed by the Indiana Supreme Court after the Commission on Judicial Qualifications investigates specific complaints; consequently, the coalition felt it a more efficient course of action to publicly demand Busse’s resignation and formal apology.⁴¹ On Tuesday, January 16, an editorial cartoon (seen in figure 2) appeared which depicted Busse

⁴⁰ Steven Thomma, "City Women Demand Busse's Resignation," *The Journal-Gazette*, Jan. 14, 1979.

⁴¹ *Ibid.*

fishing, being hooked and pulled out of the boat by his own reel, labeled “‘trolling’ remarks.”⁴² In the days thereafter, Busse may indeed have felt tugged towards the door, as the area’s women’s organizations mobilized and formulated their dual strategies: the first, formal and based upon the implications of the incident related to Busse’s job performance; the second, informal and public, based upon utilizing the media to encourage all citizens to call upon Busse to step down.

While the behind-the-scenes machinations to remove Busse were taking place, a war of words was being waged in print. *The Journal-Gazette* featured, in the immediate aftermath of the controversy, letters to the editor from both Lehman’s grandmother and John M. Beams, the executive director at the Metropolitan Human Relations Commission.⁴³ The former, credited in the newspaper as “Mrs. Ardith Wrisk,” posed the question that seemingly every woman wanted Busse to answer: was Lehman on trial, or Hanic?⁴⁴ Beams, on the other hand, went for the jugular, calling into question the legal intelligence of a judge who would characterize merely

⁴² Steve Sack, "'Trolling' Remarks," *The Journal-Gazette*, Jan. 16, 1979.

⁴³ "Letters: Busse Condoned Rape; Woman Victim of Courts," *The Journal-Gazette*, Jan. 17, 1979.

⁴⁴ Ibid.

“exercising the right of access to public accommodations” as “trolling.”⁴⁵ Both seemed to demand a response, which they received the following day. In a curt and cursory reply, probably best given the situation, he issued a two-line public apology for his characterization of her and her behavior.⁴⁶ A week later, he sealed the records of the trial.⁴⁷ While Busse seemed eager to put the issue behind him, women’s groups were eagerly gearing up for a fight.

On January 21, the formal complaint process against Busse was outlined in a feature in *The Journal-Gazette*; it discussed the many requirements of the commission that would investigate the complaints, which would need to remain secret or be invalidated.⁴⁸ Plans were announced for a demonstration at the Allen County Courthouse on the day of Hanic’s sentencing, which went forward as planned; some 30 women picketed Busse’s presence, and were subsequently described as “unappealed” in the article which appeared in the paper the following

⁴⁵ Ibid.

⁴⁶ "Letters: Busse Apologizes to Woman," *The Journal-Gazette*, Jan. 18, 1979.

⁴⁷ "Judge Busse Seals Records from Rape Trial," *The Journal-Gazette*, Jan. 24, 1979.

⁴⁸ Steven Thomma, "Women's Group Begins Drive to Remove Busse from Bench," *The Journal-Gazette*, Jan. 21, 1979.

day.⁴⁹ For the next two months, the Coalition for Justice would collect over 1,000 signatures in a public appeal that sought to force Busse's resignation, while simultaneously orchestrating the submission of private complaints for review by the Supreme Court with regard to a possible judicial removal.⁵⁰ In the end, though, Busse ignored the petition and the commission returned a finding in favor of Busse, clearing him of the suggested judicial misconduct.⁵¹ As the headline for the piece in *The Journal-Gazette* put it: "Feminists' Busse Ouster Campaign Appears Stalled." Stalled, indeed. Ultimately, the extent of Busse's "punishment" was running the gauntlet of public opinion in the days, weeks, months, and years following his ill-considered remarks. He was never removed from office, nor even officially reprimanded.

Despite the existence for some time of myriad groups, clubs, and organizations that specifically pursued the advancement of women and the protection of their rights, the case of *State v. Hanic* and the offhand commentary of a single judge proved to be enough to ignite a firestorm of controversy and reinvigorate the women of Fort Wayne under a shared cause. Given

⁴⁹ Dell Ford, "Busse Opponents Unappeased," *The Journal-Gazette*, Jan. 30, 1979.

⁵⁰ "956 Signers Request Busse Leave Bench," *The Journal-Gazette*, Mar. 20, 1979.

⁵¹ "Panel Clears Busse in 'Trolling' Comment," *The Journal-Gazette*, Mar. 07, 1979; "Feminists' Busse Ouster Campaign Appears Stalled," *The Journal-Gazette*, Mar. 23, 1979.

the circumstances both nationally and locally at the time, and the veritable saturation of the issue of rape in the media, it was almost a foregone conclusion as soon as Busse uttered the word “trolling” that his comments and the case to which they were related would become so much fodder for debate and discussion. Women’s rights, while a cause not easily embraced by the German-American immigrants who held tightly to their traditional views about marriage, motherhood, and the duties of a woman in polite society, found fertile ground in Fort Wayne, in the words and deeds of several generations of women who were, undoubtedly, feminist activists (to varying degrees, of course).

As was the case with the public reaction to the Rideout case over 30 years ago, many continue to have trouble defining the parameters of rape, or seeing boundaries that have not been firmly established within the societal or legal structures. As recently as 2007, right-wing commentator and ERA nemesis Schlafly was back in the news, having presented a speech entitled *Feminism vs. Conservatism: The Great Debate* at Bates College in Lewiston, Maine.⁵² In the course of her remarks, she opined: “By getting married, the woman has consented to sex, and

⁵² Sam Guzik, "Questions for Phyllis Schlafly," *Student Life*, May 5, 2008.

I don't think you can call it rape."⁵³ There have been numerous stories in just the last decade or so of persons in the public sphere who have shared their personal beliefs on and definitions of rape, including the now-infamous trauma-as-contraceptive argument or the offensive semantic debates over "forcible rape" and "legitimate rape." Perhaps what this reveals, ultimately, is that history does indeed repeat itself. Happily, as has been discussed, the women of Fort Wayne have advocates ready and willing to work on their behalf should they need assistance in addressing any encroachments upon their rights. It seems reasonable that, in a city built upon ground surrounded by three rivers, the ebb and flow of women's rights, politics, and life in general would all seem fairly manageable. The feminist activists in northeast Indiana may be navigating comparatively calmer waters at present, but one might be correct in assuming that they are always watching for anyone clumsily wielding the rod and reel of ignorance, or effectively trolling for trouble where the rights of women are concerned.

⁵³ Ibid.

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