

# First Amendment Lawyers Association

Suite 1200, 1737 Chestnut Street

Philadelphia, Pa. 19103

Phone: 215-665-1600



## Officers

### Chairmen Emeritus

Stanley Fleishman  
Robert Eugene Smith  
Joseph Taback  
Joel Hirschhorn  
John Weston  
Arthur M. Schwartz  
Richard J. Hertzberg  
Elmer Gertz

### National Chairman

 Mr. David Webb, Organizer

Paul J. Cambria, Jr. National Campaign for the Reform of  
the Obscene Publications Act  
15 Sloane Court West  
Chelsea, London SW3 4TD England

### President

J. Steven Beckett

### First Vice President

Yale Freeman

### Second Vice President

Morris M. Goldings

### National Treasurer

William E. Seekford

### National Secretary

Errol Copilevitz

### General Counsel

Herald Price Fahringer

## Administrative Director

Albert B. Gerber

October 13, 1980

Dear David:

In our recent meeting in New York, we discussed the difference between freedom of the arts in the United States and in England. I made a comment to you which you asked me to reduce to writing. I am pleased to do so in this letter:

In the United States, we have a great many laws, both state and federal, which are all aimed at allegedly obscene motion pictures, books, magazines, etc. However, notwithstanding these laws, we do have considerable freedom from any censorship of any kind in all major and metropolitan areas of the United States. First, I would like to emphasize that we are not permitted to have pre-censorship anywhere in the United States. This is regarded as a violation of our First Amendment to the U.S. Constitution. There have been various efforts to enjoin publication of books, magazines, or the showing of films, and these have been uniformly unsuccessful. This is because prior censorship is not permitted.

We do have criminal prosecutions for publication or the showing of obscene material. However, there are a number of safeguards. I believe that our major safeguard is the fact that in every criminal prosecution the full and final decision is up to the Jury. Furthermore, the Jury in every instance is required to be instructed that the matter before it (allegedly obscene) must be considered in the light of the then contemporary community standards of that community. Defense attorneys

are permitted to bring in comparable material to show the Jury what constitutes permissible material in the contemporary community setting. As a result of this safeguard, I venture to say that more than 95% of recent prosecutions have failed and Juries have returned Non Guilty verdicts.

Our latest development has been rulings of the court that we can bring in opinion polls to show what the people believe to be obscene and what the majority of the people will regard as permissible under most circumstances. As a result the defense attorneys have been very successful in practically all metropolitan areas.

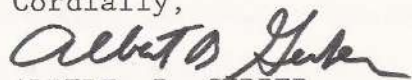
As a result of these techniques, prosecutions have dropped drastically and aside from an occasional criminal action in a rural area, we have few prosecutions today of any significance.

Frankly, most prosecutions in the United States take place within 30 days before an election in which a District Attorney is running for some position. And the purpose of this prosecution is that he can point to the church vote and say dramatically, "See, I am enforcing the anti-obscenity laws!" But those prosecutions are rarely successful and if the District Attorney did not have immunity, I believe that damage suits against him would be successful.

I have, of course, hit only the highlights of the American scene. If you desire this developed further, please advise. In any case I wish you success in your endeavor to reform the Obscene Publication Act. I might add as a conclusion that I was somewhat startled in my last visit to London last year in which I found definite evidence of the stifling of artistic expression in all phases of the arts when I compared the English scene to the American scene. At this point we have much more freedom than you do. And frankly, Freedom is the greatest goal in the world!

ABG:is

Cordially,



ALBERT B. GERBER,  
Administrative Director