

2004

Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media

Kenneth A. Paulson

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/jetlaw>



Part of the [Entertainment, Arts, and Sports Law Commons](#)

Recommended Citation

Kenneth A. Paulson, Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media, 7 *Vanderbilt Journal of Entertainment and Technology Law* 61 (2021)
Available at: <https://scholarship.law.vanderbilt.edu/jetlaw/vol7/iss1/3>

This Article is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Journal of Entertainment & Technology Law by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact mark.j.williams@vanderbilt.edu.



DATE DOWNLOADED: Wed Apr 26 09:14:47 2023

SOURCE: Content Downloaded from [HeinOnline](#)

Citations:

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Bluebook 21st ed.

Kenneth A. Paulson, Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media, 7 VAND. J. ENT. L. & PRAC. 61 (2004).

ALWD 7th ed.

Kenneth A. Paulson, Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media, 7 Vand. J. Ent. L. & Prac. 61 (2004).

APA 7th ed.

Paulson, K. A. (2004). Regulation through intimidation: congressional hearings and political pressure on america's entertainment media. *Vanderbilt Journal of Entertainment Law & Practice*, 7(1), 61-89.

Chicago 17th ed.

Kenneth A. Paulson, "Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media," *Vanderbilt Journal of Entertainment Law & Practice* 7, no. 1 (Winter 2004): 61-89

McGill Guide 9th ed.

Kenneth A. Paulson, "Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media" (2004) 7:1 Vand J Ent L & Prac 61.

AGLC 4th ed.

Kenneth A. Paulson, 'Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media' (2004) 7(1) *Vanderbilt Journal of Entertainment Law & Practice* 61

MLA 9th ed.

Paulson, Kenneth A. "Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media." *Vanderbilt Journal of Entertainment Law & Practice*, vol. 7, no. 1, Winter 2004, pp. 61-89. HeinOnline.

OSCOLA 4th ed.

Kenneth A. Paulson, 'Regulation through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media' (2004) 7 Vand J Ent L & Prac 61
Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Provided by:

Vanderbilt University Law School

Regulation Through Intimidation: Congressional Hearings and Political Pressure on America's Entertainment Media

By Kenneth A. Paulson*

“Congress shall make no law...” The first line of the First Amendment to the United States Constitution is unambiguous. Yes, there have been debates and discussion about the scope and application of the forty-five words of the First Amendment, but those first four words say that Congress may not control what we say, write, and express.

Yet despite that restriction, Congress has in fact had significant say in the content of America's entertainment media and popular culture, particularly programs and products directed toward young people. Over the past century, Congress and other governmental bodies have used hearings, the threat of legislation, and political pressure to accomplish what government is unable to do directly: suppress or discourage unpopular or unpalatable speech.

This paper explores how Congress has shaped and limited the content of films, comic books, popular music, and television over the past century. Specifically, this report focuses on the path to “self-regulation” and industry-wide codes for these four media, and how government used pressure and influence to spur the adoption of standards.

The common elements:

- When members of Congress want a media industry to change or eliminate constitutionally-protected free expression, they often conduct hearings designed to pressure the industry.
- These hearings most frequently focus on the impact of media or art on young people.
- These hearings are designed to generate extensive publicity and awareness.
- The media targeted by the hearings frequently respond to Congressional

criticism with a commitment to regulate their own content.

- These hearings – in theory conducted to consider legislation—rarely lead to new laws or government regulations.

Although legislative hearings are now common and accepted as a logical component of the democratic process, there was once some question whether Congress had this authority at all.

I. Congress' authority to conduct hearings

The Constitution established a distinct separation of powers for the legislative, executive and judicial branches, setting up a system of checks and balances that would inhibit the abuse of power. How, then, to explain legislative hearings, an amalgam of judicial elements—subpoenas, testimony, contempt proceedings—and executive matters?

The propriety of Congress conducting an investigation was explored at length in 1792, after a force of 1,500 troops under the direction of General Arthur St. Clair suffered an unprecedented defeat at the hands of Indians in a region that would later become Indiana and Ohio. Approximately 600 troops were killed, including many raw recruits. The House of Representatives initially proposed that President George Washington conduct the investigation, while General St. Clair sought review by a military court. In the end, the House decided it had the authority to establish its own investigative committee to collect testimony and information.

Standing committees and sub-committees conduct congressional hearings. In the nation's early years, these committees were temporary. That changed, though, as the legislative workload grew and issues became more complicated. “As the nation grew and took on more complex

CURB CENTER SPECIAL FEATURE

responsibilities and problems, Congress had to develop expertise and the mechanisms to deal with the changing world. And so, from a somewhat haphazard arrangement of *ad hoc* committees evolved a highly specialized system of permanent committees,” Congressional Quarterly reported in *How Congress Works*.

Through hearings, congressional committees can gather detailed testimony and information about emerging issues and pending legislation, calling on experts to provide depth and perspective. That power to convene hearings can illuminate the legislative process, but it can also be used as a weapon.

II. The advent of “young culture”

Time and again, arts and media targeted to a youthful audience have faced congressional scrutiny. Highly visible hearings and negative publicity have combined to pressure these youth-oriented media into limiting the scope of their content.

Hearings and the specter of government censorship spanning a century have spurred “voluntary” regulation of entertainment and storytelling for each new generation. From local pressure on early filmmakers, through the 1950’s scrutiny of comic books and the 1980’s examination of rock music, to more recent hearings on television and film, legislators have sought to curb entertainment media content without running afoul of the First Amendment.

This trend to control media content on a national basis stemmed from a convergence of new and emerging media and content specifically directed toward young people. The media targeted by Congressional hearings into content over the past century vary in tone, approach, and popularity, but might collectively be described as “young culture.” Movies, contemporary music, and other forms of entertainment are literally the culture of the young, but they are also young in the sense that they are the products of technological advances and new

media. Most are challenged by those in authority during the first generation of use or distribution.

III. Film and the First Amendment

While the focus of this paper is on Congressional hearings, pressure—particularly during the first half of the 20th century—was often brought

“That power to convene hearings can illuminate the legislative process, but it can also be used as a weapon.”

directly, through state laws or local ordinances. There was no need for a public exploration of media content or implications for the First Amendment because the First Amendment did not apply.

It was not until 1925 in *Gitlow v. New York* that the U.S. Supreme Court found that the First Amendment’s guarantees even applied to the states. It was not until pivotal Supreme Court cases in the late 1940’s and early 1950’s that entertainment media began to enjoy the protection historically afforded to news media.

The experiences of the movie industry—both before and after First Amendment protection—are illustrative. Faced with censorship from communities all over America and a growing demand for federal legislation to curb perceived excesses in film, the industry embraced self-regulation. Decades later, with freedom of speech through film firmly established, the industry retained the same strategy, recognizing a need to keep Congress at bay.

A. Before the First Amendment

In the late nineteenth century, dime novels targeting children were widely criticized, but this reaction paled in comparison to the response to the birth of the motion picture industry. Suddenly there

Regulation Through Intimidation

was a medium that reached audiences nationwide with a powerful and emotional impact. This was also a medium with tremendous appeal to the young, leading to fears about the corruption of morals and values.

The first public screenings of films, then known as kinetoscopes, came at the Chicago World's Fair in 1893, followed by commercial peep-show boxes in New York City in 1894. In 1896, Edison's racy film, *Dolorita's Passion Dance*, led to long lines

the court characterized movies as being mere entertainment and not worthy of expanded protection. It concluded that "the exhibition of motion pictures is a business pure and simple ... not to be regarded, nor intended to be regarded ... as part of the press of the country or its origins of public opinion. They are mere representations of events, of ideas and sentiments published or known."

In his majority opinion, Justice McKenna also noted that movies "may be used for evil, and against

that possibility the statute was enacted."

Holding that "pictorial representation" is inappropriate for some subjects, Justice McKenna noted that several states supervised motion pictures "in the interest of the public morals and welfare.... We would have to shut our eyes to the facts of the world to regard the precaution unreasonable or the

legislation to effect it a mere wanton interference with personal liberty." That ruling meant that the film industry would face content challenges from hundreds of local municipalities. A film could be edited and chopped according to the whims of local censors.

The movie industry had to find a way to stem the tide of government intervention. It began that process with its first self-regulatory body, a strategy that would be revisited by moviemakers and other media for decades to come. After all, what were the options? With First Amendment protection set aside, the only path was to build a public perception that the film industry was committed to wholesome entertainment and would attain that goal without government "help" or interference.

In 1916, the studios founded the National Association of the Motion Picture Industry, which developed a series of content guidelines and threatened non-complying studios with expulsion from the organization. That was a first step, but Hollywood's challenges deepened.

"The studios were going through an economic crunch in the early twenties," according

“With First Amendment protection set aside, the only path was to build a public perception that the film industry was committed to wholesome entertainment and would attain that goal without government “help” or interference.”

of enthusiastic men on the boardwalk in Atlantic City and the subsequent banning of the movie.

By 1907, the city of Chicago, encouraged by editorials in the Chicago Tribune, gave the chief of police the power to censor movies. Two years later, a private institute launched the National Board of Censorship of Motion Pictures, a reviewing body that would charge moviemakers for the service and provide an endorsement for films that met the Board's standards. Some communities used the Board's findings to determine whether a film could be shown. Over the next few years, though, the influence of the Board waned as some studios refused to participate, leaving censorship to a growing number of government boards.

State regulation of movies was challenged in 1915 on First Amendment grounds. The ruling in *Mutual Film Corp. v. Industrial Commission of Ohio* would set the stage for both governmental censorship and "voluntary" industry regulation for the next thirty-seven years. In this case, the U.S. Supreme Court upheld Ohio's film censorship board, paving the way for similar bodies throughout the country. In finding that the board's actions violated neither the First Amendment nor the Ohio Constitution,

CURB CENTER SPECIAL FEATURE

to Frank Miller, the author of *Censored Hollywood*. A “series of epidemics had cut into film attendance,” including a public reluctance to “risk exposure to crowds” and increasing competition from the radio media. “With the decline in box-office sales, the threat from state censors became critical. When New York State set up its own censorship board in 1921, threatening the nation’s largest film market, the studio heads knew that they had to do something before it was too late.”

That “something” was the formation of the Motion Picture Producers and Distributors of America (MPPDA), to be led by Will H. Hays, President Warren Harding’s postmaster general. With a mandate to head off government interference and to clean up films for the benefit of the industry, Hays became the single-most influential figure in early motion picture history.

In his 1955 memoir, Hays recalled that he decided to take the job after overhearing his son and two nephews argue over which one would play film hero William S. Hart during a game of cowboys.

I realized on that Christmas morning that motion pictures had become as strong an influence on our children and on countless adults, too, as the daily press. The juvenile argument which I had overheard confirmed my feeling and my fears that the great motion picture industry might as easily become a corrupting as a beneficial influence on our future generations.

Hays took the job in December 1921 and spent the next decade trying to encourage the studios to tone down what was for the time both suggestive and violent content.

But these lists of “don’ts” and “be carefals” were not fully embraced by the studios and pressure for legislation began to mount. Congress kept the heat up. The House Committee on Education held hearings in 1925 and 1926 to explore establishing the Federal Motion Picture Commission. In 1928, an unrelated organization called the Federal Motion Picture Council began a campaign for federal legislation that would curb the content of movies, a movement that drew the support of newspaper mogul William Randolph Hearst.

In response to the growing pressure, Hays and the MPPDA announced the adoption in 1930

of the Production Code, a self-regulating device designed to fend off government action. The preface to the code made the case to the public:

Motion picture producers recognize the high trust and confidence which have been placed in them by the people of the world and which have made motion pictures a universal form of entertainment. They recognize their responsibility to the public because of this trust and because entertainment and art are important influences in the life of a nation.

Hence, though regarding motion pictures primarily as entertainment without any explicit purpose of teaching or propaganda, they know that the motion picture within its own field of entertainment may be directly responsible for spiritual or moral progress, for higher types of social life, and for much correct thinking.

During the rapid transition from silent to talking pictures they have realized the necessity and the opportunity of subscribing to a Code to govern the production of talking pictures and of re-acknowledging this responsibility. On their part, they ask from the public and from public leaders a sympathetic understanding of their purposes and problems and a spirit of cooperation that will allow them the freedom and opportunity necessary to bring the motion picture to a still higher level of wholesome entertainment for all the people.

Key principles in the 1930 Production Code include the following:

- No picture shall be produced that will lower the moral standards of those who see it. Hence the sympathy of the audience should never be thrown to the side of crime, wrongdoing, evil, or sin.

Regulation Through Intimidation

- Correct standards of life, subject only to the requirements of drama and entertainment, shall be presented.
- No film or episode may throw ridicule on any religious faith.
- The treatment of bedrooms must be governed by good taste and delicacy.

“ Did the industry overreact? Did it restrict the content of movies because of some irrational fear of congressional regulation? ”

These selected passages convey just some of the restrictions on filmmakers imposed by the industry and motivated by a fear of state and local legislators. The ideas of both screenwriters and directors were altered,

often against their will, and the public often left movie theaters with a dramatically different message than the film's creators originally intended.

This self-regulatory scheme affected some of America's best-known films. Consider the following examples:

- Law, natural or human, shall not be ridiculed, nor shall sympathy be created for its violation.
- (Crimes) shall never be presented in such a way as to throw sympathy with the crime as against law and justice or to inspire others with a desire for imitation.
- The use of liquor in American life, when not required by the plot or for proper characterization, will not be shown.
- The sanctity of the institution of marriage and the home shall be upheld. Pictures shall not infer that low forms of sex relationship are the accepted or common thing.
- Excessive and lustful kissing, lustful embraces, suggestive postures and gestures, are not to be shown.
- In general, passion should so be treated that these scenes do not stimulate the lower and baser element.
- Sex hygiene and venereal diseases are not subjects for motion pictures.
- Pointed profanity (this includes the words "God," "Lord," "Jesus," "Christ," unless used reverently, "Hell," "S.O.B.," "damn," and "Gawd"), or every other profane or vulgar expression however used, is forbidden.
- Dances suggesting or representing sexual actions or indecent passions are forbidden.
- *Gone With the Wind* producer David O. Selznick won a battle to have Rhett Butler tell Scarlett O'Hara "Frankly, my dear, I don't give a damn," but only after agreeing to delete a number of other Butler lines, among them "The world is full of beds, and the beds are full of women." He also agreed to show Melanie's childbirth scene in silhouette.
- In Bing Crosby's family-friendly *Going My Way*, the Hays office objected to the phrase "Ah, pig-dust" and urged that two of the priests be portrayed in a more dignified manner.
- The producers of *Casablanca* were told they could not hint at a sexual relationship between Rick and Ilsa during their time together in Paris.
- In the 1951 screen version of Tennessee Williams' *A Streetcar Named Desire*, filmmakers were told they could not portray Blanche as a nymphomaniac or Allan as a homosexual.

The Production Code also meant that many unpopular or controversial ideas were off-limits.

CURB CENTER SPECIAL FEATURE

Charles Chaplin's 1947 film *Monsieur Verdoux* tells the story of a man who marries several women and then murders them for their wealth. When captured, he is unrepentant and compares his actions to nations at war. In demanding changes in the film, Production Code head Joe Breen was "clearly trying to decide what ideas may and may not be expressed on screen," according to film historian Frank Miller.

"Censorship prevented Hollywood from interpreting the morals and manners, the economics and politics, and the social and ethical issues facing American Society in direct and honest terms" wrote Gregory D. Black in *Hollywood Censored*.

Did the industry overreact? Did it restrict the content of movies because of some irrational fear of congressional regulation? Gerald Gardner, author of *The Censorship Papers*, doesn't think so.

When all the rival studios of Hollywood, with unaccustomed solidarity, agreed to set up a self-censoring machinery called the Hays Office, it was primarily over fear that the U.S. Congress, in its wisdom, might pass federal

legislation mandating government censorship of the movie industry. Any who feel that such fears might be have been paranoid are invited to examine the results triggered by Frank Capra's classic comedy, *Mr. Smith Goes to Washington*. Congress is a powerful body that can severely punish an industry that affronts it.

Mr. Smith Goes to Washington focused on a young senator, played by Jimmy Stewart, who exposes fraud among his Congressional colleagues with a long and debilitating filibuster on the Senate floor.

An innocent, inspiring story was it not? It was not, said the gentlemen of Capitol Hill. The Senate felt itself cruelly maligned by the motion picture industry and struck back. They wounded the movie moguls where they would be pained the most – in the wallet. They promptly passed Senate Bill No. 280, which made compulsory block booking of films illegal. The law demolished the vast and hugely profitable distribution system of the movie industry.

That demonstration of power was exactly what the movie industry was trying to avoid when it adopted its Production Code. Of course, there was no admonition in the code against embarrassing Congress.

“The importance of motion pictures as an organ of public opinion is not lessened by the fact that they are designed to entertain as well as to inform.”

B. After the First Amendment

In 1952, some unexpected help came from another branch of government, the U.S. Supreme Court, when it rendered a decision that would forever change the nature of America's movies and give the film industry a real weapon with which to defend the content of their work. In a unanimous decision in *Joseph Burstyn v. Wilson*, the U.S. Supreme Court decided that the New York Board of Regents could not ban Roberto Rossellini's *The Miracle* for being "sacrilegious." This pivotal case extended First Amendment protection to films.

The Miracle tells the story of an unstable young woman who is seduced by a stranger. The girl becomes pregnant, convinced that the man was a

Regulation Through Intimidation

saint and that the baby's birth will constitute a miracle. The New York Board of Regents initially approved the film, but backtracked after protests from the Catholic Church. Film distributor Joseph Burstyn appealed the case to the Supreme Court, setting the stage for a landmark decision. The majority opinion by Justice Tom Campbell Clark held:

It cannot be doubted that motion pictures are a significant medium for the communication of ideas. They may affect public attitudes and behavior in a variety of ways, ranging from direct espousal of a political or social doctrine to the subtle shaping of thought which characterizes all artistic expression. The importance of motion pictures as an organ of public opinion is not lessened by the fact that they are designed to entertain as well as to inform.

The *Burstyn* decision did not lead to abolition of the Production Code, but it did undercut the power of government censors that the film industry had been trying to appease. In the years following *Burstyn*, filmmakers pushed the envelope ever more aggressively, reflecting shifting norms in society as well. "With the dawn of free love, men walking on the moon, and the liberalization of every aspect of society, the Hays code (and even the Ten Commandments upon which the code was based) appeared as old as a 78-rpm record," wrote film columnist Rod Gustafson.

The film industry ran the real risk of losing touch with a changing nation. Historian Frank Miller wrote:

By 1966, morals in the U.S. had loosened to the extent that couples were beginning to live together openly without benefit of marriage, teen pregnancy was on the rise, and the younger generation was not only experimenting with such drugs as marijuana and LSD, but flaunting it. Racial minorities were fighting for equal rights and great public visibility, while homosexuals were just beginning their move into the public eye. Moreover, the arts were exercising greater freedom than ever before, with nudity

working its way into theatrical productions and such experimental forms as the happening. With the Production Code firmly in place, however, much of this was kept off the nation's movie screens. Even some television dramas were proving more liberal in their choice of subject matter than Hollywood's movies. The obvious path for Hollywood to take would have been the scrapping of the Production Code altogether in favor of a system of age classification similar to those used in other countries.

That was precisely what Jack Valenti—the new president of the Motion Picture Association of America (MPAA), MPPDA successor—had in mind. Spurred in part by the U.S. Supreme Court decision in *Ginsberg v. New York*, which found that content protected by the First Amendment may have less protection if distributed to children, Valenti managed in 1968 to get the industry to retire the Production Code and adopt a new age-based system. Movies would be labeled according to content as follows: (G)—suggested for general audiences; (M)—suggested for mature audiences adult and mature young people; (R)—restricted, such that persons under 16 not admitted unless accompanied by parent or adult guardian; and (X)—persons under 16 not admitted.

In many ways, the new ratings system was a public relations masterstroke. It hastened the dismantling of the remaining local censorship boards and discouraged new legislation. It also became the model for government bodies seeking to pressure media into some form of self-regulation. Time and again, legislators over the next four decades would say "Why can't we institute a ratings system like we have in movie theaters?"

The ratings system did what it was intended to do, casting the film studios as responsible citizens and taking governmental heat off the movie industry. But like the Hays office and production Code before it, it has also had a profound impact on what Americans see on film.

The ratings system has evolved over the years, adding a PG-13 rating and replacing the stigma of an "X" with a new "NC-17" rating. But the core system remains: a central authority to monitor and influence the content of movies. As *Washington Post* critic Tom Shales wrote in 1999:

Valenti has denied it tirelessly and disingenuously, but the MPAA ratings are censorship. The threat of an NC-17 has forced innumerable filmmakers back to the editing room to cut out scenes Valenti and his board of anonymous film raters don't like. They also censor some films at the script stage, cautioning filmmakers to go easy in spots that might prove troublesome later. If the authors of books were subjected to similar censorship, every writer in America would be screaming bloody murder. Not every movie is a work of art (nor is every book or painting), but the motion picture is an art form. Surely that much has been established by now. The producers of mechanical junk like "Wild Wild West" are not hampered by the ratings system, but serious filmmakers who tackle serious themes are.

IV. Seduction of the Innocent: Comic Book Hearings of 1954

A similar pattern of congressional pressure, self-regulation, and content control can be seen in the history of comic books, another youth-oriented industry and example of "young culture."

Although a newsstand staple for many years, comic books emerged as a new and groundbreaking art form 70 years ago. The first newsstand sales of comic books occurred in 1933, building upon the success of earlier comic strip compilations published as books or promotional items. *Famous Funnies: A Carnival of Comics*, a

collection reprinting popular comic strips as a giveaway for Proctor & Gamble, sold briskly when the publishers tried putting a 10-cent price on the book. Titles like *New Comics* and *Popular Comics* were soon to follow, with similar success; A new publishing industry was born.

In time, comic strip reprints were supplanted by new content designed expressly for comic books. When a new character called Superman began driving unprecedented sales of a half-million copies of *Action Comics* each month, publishers retooled, introducing hundreds to titles devoted to super-heroes, science-fiction and crime.

After World War II, the comic book industry shifted to racier and more violent fare. Publishers recognized the appeal of scantily clad women to its audience of both servicemen and teenage boys.

Nicky Wright explained the pervasive imagery in *The Classic Era of American Comics*:

In science-fiction comics, the space-traveling women got away with wearing up-lift metal bras that Howard Hughes would have been proud to have invented for Jane Russell, the briefest of briefs, and fetching high heel boots. In war comics, the girls hung suspended from an airplane, wearing tight mini-skirts, and flashing their stocking

“When a new character called Superman began driving unprecedented sales of a half-million copies of *Action Comics* each month, publishers retooled, introducing hundreds to titles devoted to super-heroes, science-fiction and crime.”

tops. When women became the vogue in comic books, no holds were barred.

Regulation Through Intimidation

Crime comics used the same images, along with extremely violent content. *Crime Does Not Pay* cautioned young people against a life of crime, but delivered that message through grisly scenes of shootings, knifings, and even a live burial. The comic book boasted more than 5,000,000 readers monthly.

As the more explicit content drew readers, it also drew critics. Parents and church groups spoke out against crime comic books, drawing attention from the news media. In March 1948, ABC radio broadcast "What's Wrong With the Comics?" on its "America's Town Meeting of the Air." As public pressure grew, cities and states explored ways to regulate the content of comic books. That legislative impulse was slowed, however, by the U.S. Supreme Court's pivotal decision in *Winters v. New York*.

Two thousand copies of *Headquarters Detective, True Cases from the Police Blotter* had been confiscated for violating a state law that prohibited the sale of "any book, pamphlet, magazine, newspaper or other printed paper devoted to the publication, and principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures, or stories of deeds of bloodshed, lust or crime."

The Supreme Court found that the law violated the First Amendment guarantee of freedom of the press and the Fourteenth Amendment guarantee of equal protection under the law. The court concluded that magazines intended primarily for entertainment enjoy the same protections as more serious published works. Justice Reed wrote for the majority:

The line between the informing and the entertaining is too elusive for the protection of that basic right. Everyone is familiar with instances of propaganda through fiction. What is one man's amusement, teaches another's doctrine. Though we can see nothing of any possible value to society in these magazines, they are as much entitled to the protection of free speech as the best of literature.

The *Winters* decision led to similar laws being overturned in eighteen other states and created a presumption of First Amendment protection for comic books.

Despite the *Winters* ruling, critics of comic books pressed onward. The most visible was Dr. Fredric Wertham, the senior psychiatrist for New York City's Department of Hospitals from 1932 to 1952. In August 1948, four months after *Winters*, Wertham tied comic book reading to criminal conduct at the annual Congress of Correction of the American Prison Association, where he presented his paper "The Betrayal of Childhood: Comic Books." Wertham argued that comic books exposed children to criminal and sexually abnormal ideas and offered young delinquents "a correspondence course in crime." He saw legislation limiting the content of comic books as a likely solution to the problem.

His home state of New York, the corporate home of most comic book publishers and printers, explored just that in series of bills and hearings from 1941 to 1955. In 1941, New York passed one of the earliest laws intended to control the content of comic books. The statute empowered a city's chief executive to seek an injunction against any "obscene, lewd, lascivious, filthy, indecent, or disgusting" comic books.

While the *Winters* case stalled new legislation in the late 1940's, Wertham nonetheless began writing *Seduction of the Innocent*, a 397-page indictment of the comic book industry. Largely a revisiting of themes that Wertham had explored over the previous six years, *Seduction* captured national attention when an excerpt titled "What Parents Don't Know about Comic Books" appeared in the Nov. 1953 issue of the *Ladies' Home Journal*.

Among Wertham's assertions in *Seduction* are the following:

- On pornography and comic books: "the difference between the surreptitious pornographic literature for adults and children's comic books is this: in one it is a question of attracting perverts, in the other of making them."
- On homosexual overtones in *Batman* comics:

The *Batman* type of story helps to fixate homoerotic tendencies by suggesting the form of an adolescent-with-adult or Ganymede-Zeus type of love-relationship... They constantly rescue each other from violent attacks by an unending number of enemies. The feeling

CURB CENTER SPECIAL FEATURE

is conveyed that we men must stick together because there are so many villainous creatures who have to be exterminated

At home they lead an idyllic life. They are Bruce Wayne and "Dick" Grayson. Bruce Wayne is described as a "socialite" and the official

relationship is that Dick is Bruce's ward. They live in sumptuous quarters, with beautiful flowers in large vases, and have a butler, Alfred. Batman is sometimes shown in a dressing gown. As they sit by the fireplace the young boy sometimes worries about his partner: "Something's wrong with Bruce. He hasn't been himself these past few days." It is like a wish dream of two homosexuals living together.

- On *Superman* and race relations: "The comic-book Superman has long been recognized as a symbol of violent race superiority. The television Superman, looking like a mixture of an operatic tenor without his armor and an amateur athlete out of a health-magazine advertisement, does not only have "superhuman powers, but explicitly belongs to a 'super-race.'"

Wertham's timing could not have been better. His article in the *Ladies' Home Journal* appeared just as the Senate Subcommittee on Juvenile Delinquency sought input from social workers, church organizations, and others who worked with young people. A questionnaire sent to 2,000 people asked for opinions about the cause of delinquency. A majority of the questionnaires citing a threat from comic books arrived after the Wertham article appeared.

The questionnaire was sent out under the direction of Tennessee Senator Estes Kefauver, the

chair of the Senate Subcommittee on Juvenile Delinquency. Kefauver had become a national political figure after leading an investigation of organized

“ They live in sumptuous quarters, with beautiful flowers in large vases, and have a butler, Alfred. Batman is sometimes shown in a dressing gown.”

crime. A probe into juvenile delinquency promised more of the same. According to Kefauver biographer Joseph Bruce Gorman:

It was Kefauver's involvement with domestic issues that attracted the most attention and garnered him the headlines which were so important in preparing the way for a bid for the presidency in 1956. Kefauver's critics were cynical about the sincerity of the senator's interest in the topics on which he focused between 1952 and 1956 and one journalist accused Kefauver of "prospecting for publicity" with his eye on the 1956 nomination.

In a 2001 interview, veteran comic book artist Carmine Infantino recalled the political heat. Kefauver "wanted to be president at that time, so he found a great vehicle here. And he jumped in and all of a sudden the attack got vicious. The people who were distributing books got very nervous, and they started shipping comic books back at us. And we were getting returns up to 90, 95 percent. So we got desperate."

The Senate questionnaire established a foundation for the April 21, 1954, hearing of the Subcommittee of the Committee on the judiciary to investigate juvenile delinquency and its specific inquiry into the content of comic books. In a ritual that would be repeated at future examinations of

Regulation Through Intimidation

young culture, the senators took pains to assert that they were not infringing on the First Amendment.

"I wish to state emphatically that freedom of the press is not at issue in this investigation," Chairman Robert C. Hendrickson said. "We are not a subcommittee of blue-nosed censors. We have no preconceived notions as to the possible need for new legislation." Senator Kefauver echoed that sentiment, explaining "We are not going into this hearing with the idea of condemning anybody or censoring the press or impairing the freedom of the press."

The first witness was Richard Clendenen, executive director of the subcommittee, who presented a slide show of comic book covers and panels, describing in detail the plots of several particularly violent comic book stories. He also submitted a survey of literature on juvenile delinquency and comic books compiled by the Library of Congress. He acknowledged that experts differed on whether comic books posed a threat to the welfare of children.

That split was reflected by the witnesses. Wertham, along with Harris Peck, director of the bureau of mental health services for the New York City children's court, testified that comic books are dangerous to children. Two other experts, Lauretta Bender, senior psychiatrist at Bellevue Hospital, and Gunnar Dybwad, the executive director of the Child Studies Association of America, said they saw little evidence of harm to children.

Wertham was the star witness in the hearing and was treated with deference by the senators, including Kefauver, who made it a point to say he had read *Seduction of the Innocent*. Wertham's testimony was short on scientific research and long on anecdotes dramatizing the threat of comic books.

Wertham's testimony included the following statements:

As long as the crime comic books industry exists in its present form, there are no secure homes...

There's a school in a town in New York state where there has been a great deal of stealing. Some time ago, some boys attacked another boy and they twisted his arm so viciously that it broke in two places, and just like in a comic book, the bone came through the skin...

If it were my task, Mr. Chairman, to teach children delinquency, to tell them how to rape and seduce girls, how to hurt people, how to break into stores, how to cheat, how to forge, how to do any known crime, if it were my task to do that, I would have to enlist the crime comic book industry...nobody would believe that you teach a boy homosexuality without introducing him to it; the same thing with crime.

Among the most memorable, and misleading, comments by Wertham was his description of a story contained in *Shock Suspenstories* #13 called "The Whipping." The plot concerns a bigot who tries to rally neighbors against a "Spanish Catholic family" living in the community. A young man from the family falls in love with the bigot's daughter, enraging him. The bigot incites his neighbors by saying that the boy had attacked his daughter. This leads to a lynch mob storming the young man's house, where they grab and murder a figure in the dark. In the story's final panels, readers learn that the victim is actually the bigot's daughter, who had secretly wed the young man.

The story was an indictment of racism, but Wertham cast it in a different light. Citing repeated references to racial epithets used in the story, he claimed that the tale encouraged racial violence. "I think Hitler was a beginner compared to the comic book industry. They get the children much younger. They teach them race hatred at the age of four before they can read."

Wertham's distortion of the story enraged William Gaines, the next witness and publisher of *Shock Suspenstories* and other publications in the Entertaining Comics (EC) group. The outraged Gaines responded:

This is one of a series of stories designed to show the evils of race prejudice and mob violence, in this case against Mexican Catholics... This is one of the most brilliantly written stories I have ever had the pleasure to publish. I was very proud of it. To find it being used in such a nefarious way made me quite angry.

Gaines' indignation soon gave way to a defensive posture, as senators honed in on EC Comics. Senators had already been irritated by an upcoming

CURB CENTER SPECIAL FEATURE

house ad for EC Comics he had submitted to the committee. The ad lampooned those who were challenging the content of comic books, drawing parallels to Communists. This was powerful stuff at the height of the Red Scare. If the senators were uncomfortable with being called censors, they were angered by the suggestion that they might share values with Communists. The Senators quickly turned to EC Comic's goriest content.

In a pivotal exchange, Kefauver asked Gaines about the May 1954 issue of *Crime Suspensstories*, which showed a man holding a bloody axe and his wife's head, with the rest of her body lying on the floor.

Kefauver asked Gaines whether he thought that cover was in good taste. Gaines responded:

Yes sir; I do, for the cover of a horror comic. A cover in bad taste, for example, might be defined as holding the head a little higher so that the neck could be seen dripping blood from it and moving the body over a little further so that the neck of the body could be seen to be bloody.

Gaines' defense of this extraordinarily ugly cover was a turning point in both the hearing and in press coverage. The next day, the New York Times played the exchange prominently on page one; national sentiment against the comic book industry grew. Feeling the political heat, the comic book industry decided to try to rehabilitate its image by adopting a new content code.

The companies formed the Comics Magazine Association of America in September of 1954 and offered the job of top code administrator to Wertham, who turned them down. Instead, the position went to Charles F. Murphy, a New York City magistrate.

The new Code, based in large part on the motion picture content code developed by the Hays office, contained a number of predictable limitations. Crime stories should never create sympathy for a

criminal; police and society's institutions should be treated respectfully. Nudity and suggestive illustrations were banned. However, in its zeal to satisfy its critics, the industry adopted a number of other idiosyncratic restrictions. It banned vampires, ghouls, werewolves, comic books with the words "horror" or "terror" in the title, and set limits on how large the word "crime" could appear on a cover.

The new Code, coupled with a backlash from retailers rattled by the negative publicity about comic books, led to many comic book companies going out of business. As companies left the field and others retooled their publications, the content of comic books changed dramatically. Comics historian Amy Kiste Nyberg observed that "[g]radually, the type of comic book that had caused so much trouble for the industry disappeared, and what remained were romance, teen and funny animal comics."

In 1964, Wertham would look back with some pride at the number of comic book companies that had been driven out of business. In his 1966 book, *A Sign for Cain*, Wertham wrote:

When *Seduction of the Innocent* appeared in the middle fifties, it started a grass-roots social reaction... A change occurred. Murder in comic books decreased, and so did the number of crime-comic-book publishers. Within a

“It banned vampires, ghouls, werewolves, comic books with the words “horror” or “terror” in the title, and set limits on how large the word “crime” could appear on a cover.”

few years after the publication of *Seduction of the Innocent*, twenty-four out of twenty-nine crime-comic- book publishers went out of business. But it was only a partial victory. We now meet some of the

Regulation Through Intimidation

child comic-book readers as parents of the 'battered child' or in similar roles.

Amy Kiste Nyberg, author of *Seal of Approval: The History of the Comics Code*, contends the hearings were a sham from the outset:

In fact, the intention of the hearings from the very beginning was to force (or frighten) the publishers into adopting a self-regulatory code like that of the film industry. While declaring itself neutral in the debate over media effects, the committee looked for evidence to challenge the contention by experts that comics had little or no effect on most children; this it did through a very selective examination of the material and by discrediting those who testified in defense of comics. This tack was in keeping with the pattern of other congressional investigations, where the committee perspective was determined before the actual work began and the investigations served as little more than a dramatization of the committee's point of view.

The Comics Code was revised in 1971 and again in 1989, but has remained largely intact for almost fifty years. It brought the industry goodwill and brought some assurances to parents, but it also had devastating economic consequences for the industry and cast comic books as essentially a children's medium.

That was not the case before the Code, as publishers pushed boundaries in hopes of attracting young adult males, particularly servicemen. Although underground comics with strong sexual and political themes emerged in the 1960s, mainstream comic books would not tackle these subjects until the 1990s when some publishers began experimenting with "mature" product lines. In 2001, Marvel Comics exited the code agreement, saying it would rate its own comic books. This shift reflected an economic reality: most comic books are now sold in comic book specialty stores to collectors, and not on newsstands.

V. The Music Industry Hearings and Self-Censorship

A. We're Not Gonna Take It: Rock Music of 1985

Rock 'n' roll and rhythm and blues music have been controversial since the mid-1950s, but rarely drew much attention on a national scale from politicians or legislators. Speeches by President Richard Nixon in 1970 and Vice-President Spiro Agnew in 1971 linking popular music to illicit drug use were the exceptions. Most efforts at influencing the content of popular music had come from local or state governments.

That changed in 1984 when the national Parent Teachers Association (PTA) adopted a resolution in response to complaints by a Cincinnati father who objected to explicit lyrics on the Prince album, *1999*. The PTA's resolution pointed out that many parents have no way of knowing which records or cassettes contain explicit language or sexual content and asked record companies to label their recordings to give parents guidance.

In May 1985, the national PTA asked representatives from 62 record companies and the recording industry to attend a summit to address the problem. Just seven companies responded, all turning down the invitation. Three companies offered to meet with the PTA in private sessions.

A year later, another organization with close personal ties to Congress, the Parents' Music Resource Center (PMRC), got the attention of the recording industry. The PMRC was chaired by Susan Baker, wife of then-treasury secretary James Baker and Tipper Gore, wife of then-Senator Al Gore of Tennessee. According to Linda Martin and Kerry Segrave in their book *Anti-Rock*, "Of the original 20 members of the PMRC, 17 were married to some of Washington's most powerful politicians," and as one writer noted, "half of them are married to ten percent of the Senate."

Tipper Gore's participation was prompted after one of her young daughters bought a copy of Prince's *Purple Rain* album. In *True to Ourselves: A Celebration of Women Making a Difference*, Gore explained:

It all started one day in 1985 when
I listened to a song my 11 year-old

CURB CENTER SPECIAL FEATURE

daughter had just bought and was shocked to discover just how explicit the lyrics were. We decided to start a consumer movement to put pressure on the record industry to adopt a warning label for violence, profanity and sexually explicit lyrics. Luckily Al has never expected me to be a politically safe wife. When he first got elected, we made a pledge. We said 'Let's never do anything we really don't believe in, even if it means losing an election.' And though some people might find this hard to believe, he never once asked me to distance myself from the PMRC campaign. On the contrary, he always said 'Keep it up. You're doing the right thing. I don't care what people say.'

Far from keeping his distance, Senator Gore helped ensure that the public pressure generated by the PMRC was backed up by the political pressure of a highly visible Senate hearing. The U.S. Senate Committee on Commerce, Science, and Transportation convened its record labeling hearing on September 19, 1985.

An extraordinarily diverse and colorful group of witnesses provided testimony throughout the day. From the outset, Committee Chair John Danforth asserted that the hearing had no legislative purpose, suggesting a neutrality that did not exist:

The reason for this hearing is not to promote any legislation. Indeed, I do not know of any suggestion that any legislation be passed, but to simply provide a forum for airing the issue itself, for ventilating the issue, for bringing it out in the public domain.

A number of senators clearly had been stung by accusations that they were trying to undermine the First Amendment. Before testimony began, Senator Paul Trible of Virginia made it clear that the committee's purpose was to put some pressure on the recording industry. As he explained, "The issue before us is not prohibition, but rather the exercise of moral suasion, the labeling of offensive lyrics, and other efforts aimed at encouraging restraint regarding the time, place and manner of certain speech in question."

His reference to "time, place and manner" echoed Supreme Court rulings upholding content-neutral government regulation of speech. Yet, this hearing was all about content.

"The First Amendment is not under attack here," Trible continued. "The Constitution is many things to many people, but they do not serve it well, those that thoughtlessly invoke its words to defend their every word and action."

“As he explained, “The issue before us is not prohibition, but rather the exercise of moral suasion, the labeling of offensive lyrics, and other efforts aimed at encouraging restraint regarding the time, place and manner of certain speech in question.””

Sen. Gore picked up the theme, citing the goals of the PMRC:

They're not asking for any form of censorship or regulation of speech in any manner, shape, or form. What they are asking for is whether or not the music industry can show some self-restraint and working together in a manner similar to that used by the movie industry, whether or not they can come up with a voluntary guidance system for parents that wish to exercise what they believe to be their

Regulation Through Intimidation

responsibilities to their children, to try to prevent their children from being exposed to material that is not appropriate for them.

Any pretense of a neutral examination of the issues disappeared with the calling of the first witness, Senator Paula Hawkins of Florida. Hawkins, chairman of the Children, Family, Drugs and Alcoholism subcommittee, and not an expert on popular culture or contemporary music, presented a slideshow of suggestive record album covers. Hawkins followed that up with two rock music videos—Van Halen’s “Hot For Teacher” featuring a stripping schoolteacher, and “We’re Not Gonna Take It,” a Twisted Sister song about rebelling against authority.

The next testimony came from four members of the PMRC: Susan Baker, Pamela Howar, Sally Nevius, and Tipper Gore, along with Jeff Ling, a frequent lecturer on the dangers of rock music. Baker alleged that contemporary music bore some responsibility for “epidemic proportions of teen pregnancies and teen suicides.” She also linked rock music to a seven percent increase in the number of rapes in America. She did not offer documentation to support these claims.

Like Hawkins, Ling presented a slideshow on suggestive images and lyrics, heavily sprinkled with profanity and lurid language. After the slide show, senators asked a number of friendly questions of PMRC members, eliciting from Tipper Gore one more assurance that the organization was not seeking legislative remedies.

This apparently exasperated Senator James Exon of Nebraska, who was clearly looking for a way to regulate popular music:

I wonder, Mr. Chairman, if we are not talking about Federal regulation and we are not talking about Federal legislation, what is the reason for these hearings in front of the commerce committee? Can anyone answer that? ... Sometimes I wonder why these media events are scheduled and for what possible reason if we are not being asked to do anything about it ... As one member of the Congress, I think that we indulge in too many publicity events that are far beyond the scope

of regulation and legislation, which I think is our primary purpose.

Only after hearing from six witnesses seeking media industry reform and seeing two extended slide and video presentations did the committee call the first PMRC opponents.

Frank Zappa, a respected avant-garde rock musician, was aggressive in his testimony, criticizing the PMRC directly. Zappa argued that the “complete list of PMRC demands reads like an instruction manual for some kind of sinister toilet-training program to house-break all composers and performers because of the lyrics of a few.” Zappa also accused the Recording Industry Association of America (RIAA) of cooperating with the PMRC in order to secure passage of a law that would tie sales of blank tape to royalties for the recording industry.

In an odd twist, Zappa suggested that all recordings be issued with a full set of lyrics, possibly with government participation:

If you consider that the public needs to be warned about the contents of the records, what better way than to let them see exactly what the songs say? That way you do not have to put any kind of subjective rating on the record. ... But in order for it to work properly, the lyrics should be on a uniform kind of a sheet. Maybe even the government could print those sheets. Maybe it should even be paid for by the government.

The questioning of Zappa had a distinctly sharper tone than those of earlier witnesses. Washington’s Senator Slade Gorton called Zappa “boorish” and “incredibly and insensitively insulting.” He further observed that Zappa “could manage to give the First Amendment of the Constitution of the United States a bad name if [he] felt that [Zappa] had the slightest understanding of it, which [he does] not.”

The hostility continued with Senator Exon, the first to reflect the generation gap, leading to the following exchange:

Exon: I have heard of Glenn Miller and Mitch Miller. Did you ever perform with them?

CURB CENTER SPECIAL FEATURE

Zappa: As a matter of fact, I took music lessons in grade school from Mitch Miller's brother.

Exon: That is the first sign of hope we've had in this hearing.

Minutes later, Exon delivered the threat that had been implicit all along. He said, "I simply want to say to you that I suspect that unless the industry 'cleans up their act' –

and I use that in quotes again – there is likely to be legislation."

John Denver, the next witness, received a much warmer welcome. Denver said he was there in part because his song "Rocky Mountain High" was widely banned by radio stations because it was believed to be a drug-related song. He said that misinterpretation of his music illustrates the inherent problem in categorizing and rating songs. Denver was as diplomatic as Zappa was aggressive, complimenting the committee and the PMRC for airing the issue.

Senator Gore returned to the PMRC theme that rock music promotes suicide in an exchange with Denver:

Gore: Let me come back to the question about suicide. Let us say you have a popular rock star who has a lot of fans who sings a song that says suicide is the solution and appears in fan magazines with a gun barrel pointed in his mouth and promotes material that seems to glorify suicide. The United States has one of the highest rates of teen suicide of any county in the world. The rate has gone up 300 percent in the last decade among young people, while it has remained constant among adults. Do you think it is a responsible act for a record company to put out a song glorifying suicide and for the artist to promote the album by putting a

gun in his mouth in a simulation of suicide?

Denver: I would not like to be the one to tell a record company or an artist what to do. I certainly think the picture you have described is deplorable and if I found that in my home, I would talk to my kids about it and get rid of it.

The next witness was Dee Snider, the lead singer of "Twisted Sister," a band whose "We're not Gonna Take It" made the PMRC's list of "Filthy 15" rock records. Snider attempted to rebut some accusations made by Tipper Gore in an opinion column published in *Newsday*, including her suggestion that his song "Under the Blade" encouraged sadomasochism, rape, and bondage.

“ Zappa: As a matter of fact, I took music lessons in grade school from Mitch Miller's brother.
Exon: That is the first sign of hope we've had in this hearing. ”

Snider countered that the song was in fact about surgery and had no sexual content. He also pointed out that his video for "We're Not Gonna Take It" (shown earlier by Hawkins) was soon to be a part of national United Way film reaching out to young people. Snider's criticism of Tipper Gore struck a nerve with the committee members, who chided him for "attacking Senator Gore's wife."

The remaining testimony in the hearing was not as combative or as colorful. The senators heard from Millie Waterman, the national PTA vice-president for legislative activity, Stanley Gortikov, the president of the RIAA, and Dr. Joe Stuessy, a professor at the University of Texas, among others. Gortikov said the RIAA's member companies (about 85 percent of the recordings sold in the United

Regulation Through Intimidation

States) were prepared to meet the PMRC halfway. He explained:

On future releases containing explicit lyrics, recoding companies individually will include a packaging inscription that will state "Parental guidance—explicit lyrics." This will highlight such content for any concerned parent to exercise

Dr. Stuessy, a professor who believed that heavy metal music of the 1980s represented "a quantum leap into extreme violence, substance abuse, sexual promiscuity, and Satanism," echoed Senator Exon's comment:

Somehow we must send a message to the recording and radio industry—

enough is enough, you've gone too far. I hope that this committee will find a way to send a message to the industry: clean up your act or we will do it for you.

“ He warned that unless the recording industry exercised more self-restraint, there would be “a response from the elected officials of the people of this country.” ”

That drumbeat continued throughout much of the day's testimony and was

discretion, and that move by the recording companies directly addresses the core concern of the PMRC.

repeated at the close of the hearing by Senator Tribble. He observed that "probably the most important word in a democracy is 'no,' that in a free society not everything goes, and that unbridled freedom leads to chaos and to loss of freedom." He warned that unless the recording industry exercised more self-restraint, there would be "a response from the elected officials of the people of this country."

The RIAA would not, however, encourage its membership to participate in a ratings system. The abstract nature of lyrics made that impractical. According to Gortikov:

No star panel can make endless laundry lists of no-nos that can handily apply to every future lyric written. Lyrics just do not come only in the convenient form of four-letter words. They deal with interpretations, imagery, allusions and a master bank of right/wrong or good/bad characterizations is likely to become the first step toward censorship, a concept which is abhorrent and fundamentally inconsistent with creative freedom and American values.

B. The Sticker Strategy

The high-visibility hearing, the industry's labeling concession, and the largely positive mainstream press coverage for the congressional inquiry led to an agreement between the recording industry and the PMRC in 1989. Beginning in 1990, companies placed "Parental Advisory: Explicit Content" stickers on CDs according to their own internal criteria.

The labeling scheme had some widespread and unexpected consequences. Major retailers like Wal-Mart, Best Buy and Kmart have refused to stock CDs with parental advisory labels. Many in the music industry responded by releasing "clean" versions of CDs with profanity deleted and by negotiating with retailers on album art.

CURB CENTER SPECIAL FEATURE

Singer and songwriter Jill Sobule said that Wal-Mart initially refused to stock her “Happy Town” CD in 1997 because of the cover image of a Prozac capsule being broken over a house. According to Sobule:

Wal-Mart said that that was too much of a drug reference, although, you know, it’s a legal drug and they sell it. But they also thought that the white sparkle looked like cocaine. So they made me change it. And it was a big thing for me to decide on whether I’d change or not, so I just made it test tubes instead. But it still bothers me to this day that I did that.

The targets of the 1985 hearing into music were heavy metal performers, but the disproportionate impact of major retailers’ refusal to carry stickered product has been on rap and hip-hop performers.

Some argue that the purpose of the sticker system is to target unpopular ideas, not simply to warn parents. John Woods of Rock Out Censorship told the *Progressive* in 1999 that the “real motive behind these advisories seems to be to get offensive music off the shelves, since seven legislatures are currently considering bills forbidding sales of stickered CDs to minors, and/or divestiture of state funds from companies that manufacture offensive music CDs and video.”

Thirteen years after its adoption, the sticker system remains controversial. Critics say it does not offer enough information to parents. In 2004, Dan Gerstein told the *Rocky Mountain News*:

There’s no content. It’s a one-size-fits-all, cookie-cutter system that simply says “Parental Advisory.” As far as we can tell, there are no standards for common benchmarks

for the applying of the warning sticker—each company decides on its own, with an internal system. Because there’s no uniformity, the effectiveness of the label gets diluted.

The *Rocky Mountain News* also quoted hearings participant Dee Snider, who said he was horrified to hear one of his more profane performances on a jukebox in a community center. He said, “I’m, like, mortified. Didn’t they even see the ‘Parental Advisory’ sticker on that? No! Nobody even frickin’ looks!,” Snider told the newspaper. Snider indicated that his concern during the hearings was that self-censorship moves would not prevent children from hearing the music: “And it has not—they are still getting the music. My other concern was, the stores would use that as a way of segregating certain records—and they are.”

“It’s a one-size-fits-all, cookie-cutter system that simply says “Parental Advisory.” As far as we can tell, there are no benchmarks for applying of the warning sticker - each company decides its own...”

In a surprise move, recording giant BMG in 2002 adopted an advisory label containing more specifics, spelling out why the advisory was present. That was welcome news to parents, but caused some consternation for the industry. As the Philadelphia Inquirer reported:

Privately, some executives accuse BMG of breaking ranks and capitulating to reactionary forces. The company’s new sticker system moves the industry one step closer to what the labels fear most: being pressured to adopt a ratings

Regulation Through Intimidation

system such as the Motion Picture Association of America's, which prohibits access to material based on the customer's age.

VI. Television hearings of 1993

The experiences of the film, comic book and music industry illustrate the dynamics between government and media industries concerning controversial content, echoed in other fields and media. Videogames, radio, literature and television

“Despite the political posturing and the hearings, Congress was reluctant to regulate the content of television.”

have all been subject, at multiple government levels, to efforts to “clean-up” their content. In recent years, violence on television, an industry already regulated in part by the federal government, has been the subject of congressional scrutiny.

Congressional concern about the content of television shows began soon after the medium began to see mass acceptance. Dr. Keisha Hoerrner, currently an associate professor of communication at Kennesaw State University, tracked the chronology of congressional hearings into television in the 1950s:

- Rep. E.C. Gathings (D-Ark) was the first member of Congress to call for hearings into television violence, saying that “many radio and television programs, as well as certain scurrilous books and comics, are corrupting the minds and morals of the American people.”
- The House Committee on Interstate and Foreign Commerce's FCC Subcommittee convened hearings in the fall of 1952, but

made no recommendations, citing rapid changes in the industry.

- The same Senate subcommittee that investigated comic books focused on the content of television programs in June and October 1954. By 1955, Senator Kefauver was in charge of the committee, enjoying the visibility, and stacking the hearings against the television industry. As Hoerrner wrote:

Senator Kefauver opened the hearings pledging objectivity and promising testimony from leading social scientists. He placed twenty letters in the record during his opening statement, however, from parents and organizations concerned about television's role in children's lives. No letters were supportive of the industry.

Despite the political posturing and the hearings, Congress was reluctant to

regulate the content of television. However, the hearings did set the stage for hearings in the Senate in 1964 under Senator Thomas Dodd and the highly visible 1969 hearings chaired by Rhode Island Senator John Pastore. Dr. Hoerrner notes that most of the efforts to address television violence in the 1990s in fact had their roots in the 1950s.

Those early 1990s efforts to address television violence were largely led by Illinois Senator Paul Simon, whose campaign began one evening when he stumbled across a broadcast of “The Texas Chainsaw Massacre.” Simon recalled in a 2001 letter:

I turned my television set on in a motel in LaSalle County, Illinois, after attending a Democratic meeting and all of a sudden in front of me someone was being sawed in half by a chainsaw, and even though I was old enough to know that it was not real, it bothered me that night, and I thought, “What happens to a 10 year-old who watches something like this?”

CURB CENTER SPECIAL FEATURE

Simon pushed the television industry to take a hard look at violent television programs and to develop some voluntary standards. When television industry leaders said that antitrust laws prevented them from working together on such guidelines, Simon led passage of the 1990 Television Violence Act, which relaxed regulations and gave networks and cable channels the freedom to explore the issue of television violence and come up with a plan.

On May 21 and June 8, 1993, the Senate Judiciary Committee's Constitution Subcommittee, chaired by Simon, held hearings on how the television industry was responding to concerns about visual violence. Simon began the hearing by acknowledging progress by the networks:

The three networks handed me standards in December that they agreed upon in the area of violence that will affect fall programming of this coming year. And I've got to say, as I look at the fall programming...the programming does look less violent.

In opening remarks reminiscent of those who spoke at the film, comic book and music hearings years before, Ohio Senator Howard Metzenbaum raised the specter of legislation. He said, "The TV industry ought to recognize one thing and never forget it: they just have franchises, and what Congress giveth, Congress can take away."

Early in the May hearing came the testimony of Massachusetts Rep. Edward Markey, who used his time to make the case for a new system that would both rate television shows for violence and give parents the technology to block inappropriate content:

What I recommend is a two-step proposal: one, that we have a voluntary rating system, similar to the rating system which has been used by the Motion Picture Association over the last 25 years,

so that families can inform themselves as to the violent content. Second, all new television sets in the United States must include a technology with the

“ In time, the V-chip would be a key component in the strategy against television violence, with mixed results. ”

capability of blocking out particular channels or programs.

As it turned out, this would be the most influential testimony of the hearing. In time, the V-chip would be a key component in the strategy against television violence, with mixed results.

Feeling the political heat, leaders of the nation's networks turned out in full force for the first hearing. Among those testifying: Thomas Murphy, chairman of Capital Cities/ABC; Howard Stringer, president of CBS; Warren Littlefield, president of NBC; and George Vradenburg III, executive vice-president of Fox. For the most part, the executives' testimony had a "thank you for calling this to our attention" tone. Littlefield said:

Chairman Simon, you have challenged the entire entertainment industry to do a better job. NBC has gotten the message. We are listening. We hear you. We have been and will continue to take steps to scrutinize with even greater intensity the depiction of violence on television.

ABC's Murphy was similarly conciliatory, but tossed the First Amendment into the mix:

Our Constitution gives us important First Amendment rights, but with those rights come equally important responsibilities. We have tried hard to prevent excessive violence on ABC, and we intend to try

Regulation Through Intimidation

harder...It is important that the government exercise restraint in interfering with the content of the programming. Our Founding Fathers had the wisdom to recognize the importance of freedom of expression. We must guard this freedom zealously.

That assertive stance on the First Amendment was in sharp contract to testimony just weeks later by Leonard Enron, a research scientist and professor of psychology at the University of Michigan, and William Dietz of the American Academy of Pediatrics. Enron and Dietz were there to cast television violence as a public health issue, but both strayed into constitutional law. Enron argued:

As soon as the suggestion of action comes up, the TV industry raises the specter of censorship, violation of first amendment rights, and abrogation of the Constitution, and many of you have referred to that. For many years now, however, Western European countries have had monitoring of films for violence by government agencies and have permitted the showing of excess violence, particularly during child viewing hours, and I have never heard complaints by citizens of those countries that their rights have been violated.

It was an odd argument. Enron overlooked the unique nature of the First Amendment, a bundling of five freedoms unrivalled and unduplicated anywhere in the world. Instead, he suggested that the U.S. would do well to emulate Western Europe. (Earlier in the hearings, Senator Simon had observed that Germany, another Western European nation, had no censorship of movies or television.)

Similarly, Dietz' testimony included the assertion that violent television could be regulated by government in the same way it limits access to pornography. Dietz pointed out that the Supreme Court has acknowledged the right to regulate prurient material for children:

The Court has held that, where public safety is concerned, there exists a legitimate right of the State to limit speech, such as obscenity.

The scientific data that linked television violence to the behavior of children are considerably stronger than the data that linked pornography or obscene speech.

Dietz' testimony was revealing on two counts. First, it essentially equated graphic violence with obscenity, defined in legal terms as work that "depicts or describes, in a patently offensive way, sexual conduct," appeals to prurient interests and "taken as a whole, lacks serious literary, artistic, political or scientific value." Secondly, it asserted that there is an indisputable scientific connection between television violence and harm to children.

That view was pervasive throughout the television hearings. "The scientific debate is over," Enron announced. Speaker after speaker embraced his position. Even Jack Valenti, testifying in his role as president of the MPAA, threw in the towel when he said, "I am not here to tell you that gratuitous violence on television does not cause violence in the society, the evidence seems to be overwhelming, although there are other studies that haven't made this causal relationship so vivid."

By not acknowledging other, less "vivid" studies, the committee effectively framed the debate as "These shows are hurting our kids and something has to be done." That didn't leave much wiggle-room for legislators with some misgivings about government regulation.

The momentum was all in one direction, with popular – and press - support for regulation. This prompted a commentary by Patrick Maines in the November 1993 *American Journalism Review*, chiding America's journalists for jumping on the bandwagon:

The hearings on television violence were among the most explicitly speech-repressive events ever conducted in the halls of Congress. Yet most writers and columnists saw little cause for alarm. Where was the flood of outrage, in the form of editorials, feature stories, op-ed pieces and syndicated columns from journalists worried that Congress' heavy-handed coercion of the networks was an assault on the First Amendment? Reporters didn't seem to care.

In fact, the article noted, the press seemed to celebrate government intervention, with pro-

CURB CENTER SPECIAL FEATURE

hearing news articles and commentaries in *Newsweek*, *USA Today* and the *New York Times*. Maines wrote:

The *Wall Street Journal* offered up former Federal Communications Commission Chairman Newton Minow, who found a frighteningly eloquent way of advocating speech limits: "It is time we used the First Amendment to protect and nurture our children, rather than as an excuse to ignore them."

In political terms, Senator Simon saw the potential for a runaway train. In August of 1993, at a television industry summit held in the wake of the hearings, Simon called on the industry to establish a committee to monitor violence and report back to the public on an annual basis. Then came his warning:

I started in this effort as a somewhat lonely voice in Congress, but now I find many of my colleagues want to go much further than is healthy for a free society ... The surest solution is governmental intervention, but it is also the most dangerous.

In the other hearings described here, Congress stepped back after the film, comic book, and music industries instituted self-regulatory programs. That was not the case with television. An industry commitment to monitor itself was not going to satisfy critics.

Perhaps driven by a conviction that television programmers would never take the high road, or perhaps simply intrigued by the possibility of a technical solution, legislators turned to the V-chip as a way for parents to police on-screen violence. The Telecommunications Act of 1996 required every television set sold in the United States to include an electronic chip allowing parents to block programming based on an encoded rating. The law also urged the television industry to develop a

program ratings system that would flag violent or sexual programs. Today V-chips are standard components of American television sets, but not a staple in American homes.

The ratings—TV-Y7 for children who are seven and older, TV-14 for children ages 14 and older, FV for fantasy violence, V for violence, and D for suggestive dialogue—were intended to help parents, but a 2001 study by the Kaiser Family Foundation found that of the 40 percent of American families

“An industry commitment to monitor itself was not going to satisfy critics.”

who owned a television set with a V-chip, only 17 percent used the system.

Rep. Edward Markey, long an advocate of the V-chip, urged that the education of parents is critical. Last year, after a national security alert called for citizens to use duct tape to seal their homes, Markey said:

The parents of the United States know more right now in two weeks about how to duct tape the safe room in their house and how much water they should have than they know about this V-chip in their TV set.

Ten years after those pivotal 1993 hearings, there is a resurgence of interest in government limits on television content, with a number of legislators called for more stringent enforcement of standards by the Federal Communications Commission. In the words of Kansas Senator Sam Brownback:

As medical studies mount showing a correlation between viewing violence and violent behavior, which is stronger than that of

Regulation Through Intimidation

tobacco smoke and lung cancer, it is clear we must do something about the amount of indecency that plagues our airwaves.

The battle is far from over.

legislative intent. They repeatedly note the First Amendment, say they respect its principles, and acknowledge that legislation would run into constitutional limits.

As for the notion of airing views for a better understanding of a problem, the hearings are rarely balanced in terms of evidence or testimony. If the 1985 hearing into rock music was a neutral pursuit of the facts, why lead the testimony with a slideshow by Senator Paula Hawkins? If the 1993 television hearings were to be

“ The core message is “If you don’t clean up your act, we will.” ”

a balanced assessment, why was there no testimony from experts who believe there may not be a causative relationship between television programs and societal violence?

VIII. Conclusion

For more than a century, government officials have sought ways to curb or regulate the content of entertainment media. These efforts, more often than not, were justified as a way to protect children from sexual, violent or otherwise inappropriate content. Only the most cynical would dismiss these campaigns as being solely politically motivated. Most of these efforts stem from sincere concern about the welfare of young people.

But that impulse to insulate the next generation from harm has also led to one-sided hearings, political posturing, scare tactics, and a negative impact on what adults see and hear. This survey of selected hearings and investigations over the past several decades is not all-inclusive, but is illustrative. The recurring patterns seen in the survey suggest the following:

A. Government hearings into media content are primarily political and coercive exercises, not fact-finding tools.

In theory, there are two reasons to hold a legislative hearing: first, to collect information necessary to pursue legislation, or secondly, to provide an airing of views on a significant issue or problem. Yet as these examples illustrate, members of Congress go to great lengths to disavow any

The truth is that these hearings are generally intended to intimidate media industries into modifying or labeling their content and to position congressional participants in a positive light as protectors of children. Throughout these hearings, members of Congress make explicit threats of legislation. The core message is “If you don’t clean up your act, we will.”

B. Government pressure on entertainment media often has entirely unexpected consequences.

In each of the fields explored in this paper, legislators had only mixed success in pressuring entertainment media to police their content, but that pressure has often had different and unanticipated effects. In addition, efforts to limit access to entertainment media by young people can have a significant impact on access by adults.

Since 1968, movies have carried ratings to inform parents about possibly inappropriate content. Yet those labels have also led to the banning of the most adult and mature themes by shopping malls and multiplexes. The NC-17 rating literally means that the film cannot be seen by anyone under 18, but the stigma attached to it (and the earlier “X”) means that most people 18 and over

CURB CENTER SPECIAL FEATURE

will never see it in a theater or at a video store. Just months after the NC-17 rating was introduced, Blockbuster Entertainment announced that it would not carry NC-17 films. The decision came after a campaign by Donald Wildmon's American Family Association.

Another unexpected impact of the ratings system has been the ongoing bartering between movie studios and the MPAA. Discussions about what may be shown onscreen go back to the Hays office, but the system is now so ingrained that the MPAA becomes a partner in the creative process. As Valenti told *Entertainment Weekly* in 1999, "These negotiations go on all the time. A filmmaker has a right to know why he got a rating, and he's got a right to say, I'm going to adjust my film to get a less severe rating."

A filmmaker faces substantial pressure to modify his work in order to secure a rating that will maximize the potential audience and meet the economic goals of his studio. Among movies that were edited to avoid an NC-17 rating are *American Pie*, *Basic Instinct*, *Natural Born Killers*, *Boogie Nights*, and *Summer of Sam*.

Veteran screenwriter Robert Towne told the *International Herald Tribune* that 30 years ago, writers sought an R-rating. He said, "We felt if we weren't doing an R-rated film, we weren't going to reach the audience we wanted ... Now you're absolutely under pressure to make PG-13 films."

Congress certainly succeeded in its short-term goal of curbing the violent and sexual content of some comic books, but it didn't foresee the resulting collapse of dozens of comic book companies. By adopting its comics code, the industry made comic books strictly a child's medium and lost the adult audience that purchased its more graphic crime comics. It also meant the real potential of storytelling through graphics would not be realized until works like Art Spiegelman's Pulitzer-winning *Maus* and Alan Moore and Dave Gibbons' *Watchmen* emerged in the 1990s.

Congress has been less successful in curbing violence on television. While there have been critics of televised violence since the birth of the industry, networks were for many decades sensitive to controversy and the potential impact on advertising dollars. That shifted, however, with the dramatic growth in cable channels in the 1990s. With networks losing viewers annually and cable competitors fighting to carve out a niche, television creators have pushed boundaries in terms of both

violent and sexual content. The commitments elicited by Senator Simon in 1993 have had only modest long-term impact.

The V-chip, envisioned as a valuable tool for parents, has largely foundered due to consumers who are either uninformed or disinclined to use the control. As Valenti of the MPAA told a Senate Commerce Committee hearing in 2000, "About 40 to 50 million television sets are equipped today with a V-chip. How do you say, 'Mr. and Mrs. Parent, damn it, use that V-chip?' I don't know, Senator."

The rock music hearings of 1985 were intended to embarrass the recording industry over the content of its hard rock and heavy metal records. Almost twenty years later, heavy metal is a small sub-genre in contemporary music, while the real impact of labeling has been on hip-hop and rap music. The parental advisory sticker has been a scarlet letter for many of these artists, forcing them to change or edit their performances or face only mitered distribution. There's no violation of the First Amendment when Wal-Mart and Kmart refuse to carry stickered CDs, but the repercussions range from the consumer who can't find an artist's work to self-censorship in the studio.

Of course, the Internet has had a substantial impact on the distribution of recorded music. A consumer in a small town looking for an uncensored copy of the new Eminem CD can easily purchase it online rather than buy the edited copy Wal-Mart. On the other hand, content labels have little meaning for a generation of young people accustomed to illegally downloading any music they want.

C. Entertainment media, driven by economic incentives, will continue to cross the "frontiers of propriety" and are unlikely to voluntarily limit their content without pressure from outside.

While legislators are often heavy-handed and coercive in addressing media content, there is also no question that entertainment media have given them ammunition. Films, television, comic books, and contemporary music have consistently pushed content boundaries. When those shifts produce profit, there is no incentive to rein things in. Comic book publishers who were making profits with suggestive comic books like *Crimes By*

Regulation Through Intimidation

Women were not going to change paths without pressure. Self-regulatory codes that were not inspired by the threat of legislation often fell to the wayside.

Much of the boundary-pushing is simply a reflection of society. In his 1934 song "Anything Goes," Cole

and videogame companies routinely marketed products with parental advisories to children and young teens. Children as young as 10 and 12 years-old were included in focus groups for films and products with mature themes were promoted on programs and in magazines for children, the FTC

reported. Included in the FTC report was an excerpt from a marketing plan for a video game noting that the target was "males 17-34 due to M rating (the true target is males 12-34)."

That kind of cynical and irresponsible marketing undercuts self-regulatory systems and fuels the call for external

“ On the other hand, content labels have little meaning for a generation of young people accustomed to illegally downloading any music they want. ”

Porter poetically captured how each generation shocks its parents: "In olden days a glimpse of stocking was looked on as something shocking. Now heaven knows, anything goes."

In a 1945 book on the Hays office, author Raymond Moley traced the origins of these culture clashes to the twenties:

An authentic revolt against conventional standards of conduct and taste, led, it must be said by the young began with the end of the World War ... Established frontiers of propriety were crossed with a rush. It was the heyday of speakeasies, joy riding, Freudianism, corset-shedding, confession magazines and lurid fiction and drama.

Those "frontiers of propriety" are still being crossed. In a nation founded on freedom, and in which young people have substantial disposable income, old mores will be challenged and new content embraced.

Yet that evolution is separate and distinct from an industry's calculated effort to target children with adult-oriented material to attain higher ratings or revenue. A Federal Trade Commission report issued in 2000 found that the film, music,

content controls. It was no surprise that the Senate Commerce Committee convened hearings into the FTC report. It was also no surprise that the movie industry responded with a "voluntary" 12-step plan to ensure more responsible marketing.

D. America's free press, prime beneficiaries of the First Amendment, frequently rally public sentiment against the free expression rights of other media.

No newspaper would endorse government restrictions or a self-regulatory code for the newspaper industry, but that has not discouraged newspapers and broadcast media from playing influential roles in the push for content restraint in other media. From newspaper mogul William Randolph Hearst's demand for film censorship in the '30s, to more recent editorials supporting government intervention into televised violence, the news media have largely betrayed a willingness to regulate free speech other their own.

The *Modesto Bee*, for example, campaigned for a ban on horror comic books, declaring "This is not a civil liberties issue. It does not involve the suppression of ideas." The campaign of the Parents Music Resource Center was largely applauded in news media commentary. That news media support

CURB CENTER SPECIAL FEATURE

has reinforced the political benefits of campaigning against content. It is easier to make threats of legislation when there's no price to be paid on the editorial page.

E. Hearings into what America, particularly young America, sees, hears, and reads will continue to shape the nation's cultural landscape.

After decades of legislative hearings and industry promises of self-regulation, congressional complaints about the content of youth media persist. In a 2003 article about "inertia" on legislation affecting media and communications, Cableworld Magazine noted this exception: "There is one issue gaining traction, at least in the Senate: sex and violence in TV, movies and music."

Despite a V-chip and ratings systems, members of Congress have stepped up efforts to have the Federal Communications Commission control "indecent" language and programming. As long as new media challenge old mores and as long as legislators see a political benefit, there will be hearings and the threat of legislation.

Most troubling about these efforts is that, while they are inevitably couched in terms of protecting children, they often betray a contempt for the content. If there were no First Amendment protections, legislators would surely be tempted to target the speech.

Senator Exon's exchange with Frank Zappa about Mitch Miller was almost comical, but similar comments litter these hearings. Too often, older legislators have no grasp of young culture, viewing it as a trashy diversion rather than a legitimate form of free expression. Restrictions and codes that few would consider for museums or books are somehow more palatable for youth-oriented media and pop culture. As members of Congress have long known, it is easier to target the art of those who are too young to go to the ballot box.

In a nation in which the First Amendment sharply restricts government intervention into media content, legislative pressure has nonetheless had a profound effect on America's film, television, comic book, and recording industries. Even without laws being passed or regulations enacted, the government has nonetheless had a substantial, and sometimes transformative, impact on these key American

cultural institutions. In their zeal to curb what they view as offensive entertainment, members of Congress can lose sight of the Constitution.

"I have no problem with holding hearings and putting on pressure," former Sen. Paul Simon said in a September 2003 interview. He continued, "But the problem with holding hearings and putting on pressure is that most of the members have no sensitivity on the First Amendment." As Simon said, that can lead to dangerous overreaching:

The only oath we take says that we promise to support and defend the Constitution of the United States against all enemies, foreign and domestic. The domestic enemies of the Constitution are often on the floor of the House and the Senate.

References

GLENN C. ALTSCHULER, *ALL SHOOK UP: HOW ROCK 'N' ROLL CHANGED AMERICA* (2003).

Jack Anderson & Fred Blumenthal, *The Kefauver Story* (1956).

Are You a Red Dupe?, I CRIME SUSPENSTORIES 25, Oct.–Nov. 1954.

Associated Press, *McCain wary of Gore Proposal to Sanction Entertainment Industry*, Sept. 18, 2000.

Kris Axtman, *Media Violence May Be Easier Tarred Than Regulated*, CHRISTIAN SCIENCE MONITOR, Sept. 14, 2000.

MIKE BENTON, *THE COMIC BOOK IN AMERICA* (1989).

GREGORY D. BLACK, *HOLLYWOOD CENSORED: MORALITY CODES, CATHOLICS AND THE MOVIES* (1994).

Blockbuster Abandons All 'NC-17' Videos After Wildmon Group Letters, VIDEO STORE, Feb. 1, 1991.

John Burnson, *Marvel's break with the Comics Code Authority*, POP MATTERS, 2001.

Can TV Be Cleansed Constitutionally? ST. LOUIS POST-DISPATCH, Nov. 27, 1993, at 14B.

I CONGRESS INVESTIGATES: A DOCUMENTED HISTORY 1792-1974 (Arthur M. Schlesinger, Jr. & Roger Bruns eds., 1975).

CONGRESSIONAL QUARTERLY, INC., *GUIDE TO CONGRESS* (5th ed. 1999).

Edward F. Daniels, *Pols Unimpressed by Studio Promises*, MULTICHANNEL NEWS, Oct. 2, 2000.

Regulation Through Intimidation

- Dwight Decker, *Fredric Wertham - Anti-Comics Crusader Who Turned Advocate*, The Art Bin, available at <http://www.art-bin.com/art/awertham.html> (1997).
- LEWIS DESCHLER, 4 DESCHLER'S PRECEDENTS OF THE UNITED STATES HOUSE OF REPRESENTATIVES (1976).
- Tracey DiLeonardo & Juliet Dee, *Discouraging "Objectionable" Music Content: Legislation, Legislation, Economic Pressure, and More Speech*, COMMS. & L., Apr. 1, 2003.
- THOMAS DOHERTY, PRE-CODE HOLLYWOOD: SEX, IMMORALITY, AND INSURRECTION IN AMERICAN CINEMA, 1930-1934 (1999).
- Ellen Edwards, *Congress Takes Aim at TV Violence; Bills Would Require V-chip*, WASH. POST, Aug. 5, 1993, at C1.
- The Encyclopedia of the United States Congress Volume 1* (Donald C. Bacon, Roger H. Davidson & Morton Keller, eds., 1995).
- Andrew Essex, *NC-17 Gets an F*, ENT. WKLY., Aug. 13, 1999.
- Federal or State Censorship on Moving Pictures*, ELEVENTH ANNUAL REPORT OF THE WOMAN'S MISSIONARY COUNCIL OF THE METHODIST EPISCOPAL CHURCH, SOUTH, 1920-1921.
- Heather Fleming, *TV Debate Moving Beyond Ratings*, BROADCASTING & CABLE, Apr. 21, 1997.
- Joe Flint, *Simon delivers violence ultimatum*, BROADCASTING & CABLE, Aug. 9, 1993.
- GERALD GARDNER, THE CENSORSHIP PAPERS: MOVIE CENSORSHIP LETTERS FROM THE HAYS OFFICE 1934 TO 1968 (1987).
- Vern Gay, *New TV Ratings / Pact Calls For More Detail*, NEWSDAY, July 11, 1997.
- Joseph Gelmis, *Movie Ratings: A Work in Progress*, NEWSDAY, Feb. 25, 1996.
- Ginsberg v. New York, 390 U.S. 629 (1968).
- Gitlow v. New York 268 U.S. 652 (1925).
- JOSEPH BRUCE GORMAN, KEFAUVER: A POLITICAL BIOGRAPHY (1971).
- Brian Hansen, *Is Hollywood's ratings system too lenient?*, CQ Researcher, available at <http://library2.cqpress.com/cqresearcher/document.php?id=cqresrre2003032800&type=hitlist&num=0&> (Mar. 28, 2003).
- Richard Harrington, *Is Tipper Changing Her Tune?*, WASH. POST, July 22, 1992.
- Richard Harrington, *Putting Rock in a Hard Place; Battles Over Censorship Continue Across the Nation*, WASH. POST, May 26, 1993 at B7.
- Michael C. Harris, Editorial, *Pop Culture Quiz*, ILL. ENTERTAINER, Oct. 2000.
- WILL H. HAYS, MEMOIRS OF WILL H. HAYS (1955).
- Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Committee On the Judiciary*, 83rd Cong., Apr. 21-22, 1954, and June 4, 1954.
- MARJORIE HEINS, NOT IN FRONT OF THE CHILDREN: "INDECENCY," CENSORSHIP, AND THE INNOCENCE OF YOUTH (2002).
- David Ho, *Group: Kids' TV Filters Need Improvement*, AP ONLINE, Feb. 28, 2003.
- David Hochman, *Putting the 'R' in 'Park': Those Foulmouthed South Park Kiddies Hit The Big Screen In One of this Summer's Raunchiest Flicks: So How Did the Movie Avoid an NC-17 Rating?*, Ent. Wkly., July 9, 1999.
- Keisha L. Hoerrner, *The Forgotten Battles: Congressional Hearings on Television Violence in the 1950s*, WEB J. MASS COMM. RESEARCH, June 1999.
- The Impact of Interactive Violence on Children: Hearing before the Senate Committee on Commerce, Science and Transportation*, 106th Cong., Mar. 21, 2000.
- Implementation of the Television Program Improvement Act of 1990: Joint Hearings Before the Senate Subcomm. on the Constitution and the Senate Subcomm. on the Judiciary*, 103rd Cong., May 21, 1993 and June 8, 1993.
- Elizabeth Jensen, *Simon Imposes Deadline on TV Industry to Take Further Steps on Violence*, WALL ST. J., Aug. 3, 1993, at B7.
- John Jimenez, *Proposed Legislation Seeks Cross-Media Violence Ratings, ID Checks*, VIDEO STORE, June 24, 2001.
- Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952).
- Kenneth Jost, *Children's Television*, 7 THE CQ RESEARCHER ONLINE 31 (Aug. 15, 1997), available at <http://library2.cqpress.com/cqresearcher/document.php?id=cqresrre1997081500>.
- Steve Knopper, *Sticker shock 'parental warning' labels can't seem to please anyone*, ROCKY MOUNTAIN NEWS, 2003.
- Richard Lacayo, *Washington to Hollywood: Oh Behave*, TIME, Sept. 25, 2000.
- James M. Landis, *Constitutional Limitations on the Congressional Power of Investigation*, 40 HARV. L. REV. 153 (1926).
- Landmark Documents on the U.S. Congress*, CONG. Q. (Raymond Smock, ed., 1999)
- Patrick Maines, *Whatever Happened to Free Speech?*, AM. JOURNALISM REV., Nov. 1, 1993.

CURB CENTER SPECIAL FEATURE

- Kim Masters, *Judge Blasts Movie Rating System; Opinion on X-rated Film Says Industry Fails to Protect Children*, WASH. POST, July 20, 1990, at A1.
- Pamela McClintock, *Contrite Hollywood Bends to Hill Will*, VARIETY, Oct. 2, 2000.
- LAUROS G. MCCONACHIE, CONGRESSIONAL COMMITTEES: A STUDY OF THE ORIGINS AND DEVELOPMENT OF OUR NATIONAL AND LOCAL LEGISLATIVE METHODS (1973).
- Bill McConnell, *Critics Are Out For (No) Blood on TV*, BROADCASTING & CABLE, Jan. 20, 2003.
- M. NELSON MCGEARY, THE DEVELOPMENTS OF CONGRESSIONAL INVESTIGATIVE POWER (1940).
- FRANK MILLER, CENSORED HOLLYWOOD: SEX, SIN, AND VIOLENCE ON SCREEN (1994).
- Bill Minutaglio, *Offensive Music Rider Awaits Bush*, DALLAS MORNING NEWS, June 6, 1997.
- Steven Mitchell, *The Red-Hot Thrill: The Comic Book Crisis of 1948, Part Two*, COMICS BUYER'S GUIDE, Nov. 7, 2003.
- Steven E. Mitchell, *Slaughter of the Innocents, Part One*, COMICS BUYER'S GUIDE, Sept. 26, 2003.
- RAYMOND MOLEY, THE HAYS OFFICE (1945).
- Morning Edition: Youth Violence* (NPR radio broadcast, Sep. 14, 2000).
- MOVIE CENSORSHIP AND AMERICAN CULTURE (Francis Couvares, ed., 1996).
- Alicia Mundy, *The Politics of Inertia*, CABLE WORLD, Jan. 20, 2003.
- Mutual Film Corp. v. Industrial Commission of Ohio*, 236 U.S. 230 (1915).
- NANCY M. NEUMANN, TRUE TO OURSELVES: A CELEBRATION OF WOMEN MAKING A DIFFERENCE (1998).
- ERIC D. NUZUM, PARENTAL ADVISORY: MUSIC CENSORSHIP IN AMERICA (2001).
- AMY KISTE NYBERG, SEAL OF APPROVAL: THE HISTORY OF THE COMICS CODE (1998).
- Parental Rating Systems for Movies, Music, Games*, Consumer Research, Dec. 1, 2000.
- Carl Ramey, *In the battle over TV violence, the Communications Act Should Be Cheered, not Changed!*, 47 Fed. Comms. L.J. 349 (1994).
- Ratings Systems for Movies, Music, Games (Federal Trade Commission Report Discusses Ratings)*, CONSUMERS' RESEARCH MAGAZINE, Dec. 1, 2000.
- Record Labeling: Hearing Before The Senate Committee On Commerce, Science and Transportation*, 99th Cong., Sept. 19, 1985.
- The Roots of Ratings*, at http://www.gradingthemovies.com/html/parent_alerts/bp_ratings.shtml (last visited Nov. 23, 2004).
- David Rosenbaum, *Protecting Children, Tempting Pandora*, N.Y. TIMES, July 27, 2001, at E1.
- PAUL SASSIENIE, THE COMIC BOOK (1994).
- WILLIAM W. SAVAGE, COMICS, COWBOYS, AND JUNGLE QUEENS: COMIC BOOKS AND AMERICA, 1945-1954 (1998).
- Joe Schlosser, *McMahon: Hollywood Took A Dive*, BROADCASTING & CABLE, Oct. 16, 2000.
- Seduction of the Innocent Website*, at http://members.rogers.com/mattys807/soti_toc.html (last visited Nov. 23, 2004).
- LINDA MARTIN & KERRY SEGRAVE, ANTI-ROCK: THE OPPOSITION TO ROCK 'N' ROLL (1988).
- Senate Hearings Lambaste High Level of TV Violence*, CHRISTIAN SCIENCE MONITOR, June 10, 1993.
- Tom Shales, *Gross Obsessions: Jack Valenti's Raters of the Lost Art*, WASH. POST, Aug. 8, 1999, at G1.
- Short History of Censorship in Comics*, Comic Book Legal Defense Fund, at <http://www.cbldf.org/articles/archives/000036.shtml> (Aug. 11, 1998).
- Interview with Paul Simon (Sept. 26, 2003).
- Brodie Smith, *Movie Ratings Widely Seen As A Representation of Movie Quality*, U. WIRE, Mar. 6, 2002.
- Speaking Freely*, transcript from television interview with Jill Sobule, available at <http://www.fac.org/about.aspx?id=12318> (Mar. 27, 2001).
- Speaking Freely: The History of Comic-Book Censorship*, transcript from television interview with Carmine Infantino, available at <http://www.fac.org/about.aspx?id=12042> (Oct. 2, 2001).
- CHRISTOPHER H. STERLING AND JOHN MICHAEL KITROSS, STAY TURNED, A HISTORY OF AMERICAN BROADCASTING (2002).
- Christopher Stern, *Industry battles ratings, V-chip*, BROADCASTING & CABLE, June 26, 1995.
- Neil Strauss, *Texas Bans Investment in Explicit Recordings*, N.Y. TIMES, June 21, 1997, § 1, at 13.
- Studios Make Limited Vow on Violence; Guidelines for Kids' Ads Received Coolly on Hill*, Sept. 28, 2000.

Regulation Through Intimidation

Ray Surette, *The promise and the reality - Peddling Violent Entertainment to Children*, WORLD AND I, Apr. 1, 2001.

Talk of the Nation: Media Marketing of Violent Products to Children (NPR radio broadcast, Sept. 12, 2000).

Ira Teinowitz, *FTC Issues Critical Report on Violence*, ADVERTISING AGE, Sept. 11, 2000.

Sharon Waxman, *Hollywood to Limit R-Movie Ads; Ratings Changes Will Be Announced in Testimony*, WASH. POST, Sept. 26, 2000, at C1.

Sharon Waxman & Jacqueline Trescott, *Unlettered in Ratings?: Industry Blasts Clinton's Ratings Proposal*, WASH. POST, Jan. 29, 2000, at C3.

Bernard Weinraub, *The importance of being PG-13*, INT'L HERALD TRIB., Aug. 20, 2003.

FREDERIC WERTHAM, *SEDUCTION OF THE INNOCENT* (1954).

Winters v. New York, 355 U.S. 507 (1948).

BRADFORD W. WRIGHT, *COMIC BOOK NATION: THE TRANSFORMATION OF YOUTH CULTURE IN AMERICA* (2003).

NICKY WRIGHT, *THE CLASSIC ERA OF AMERICAN COMICS* (2000).