

Back to Dear Old Siwash

Justice Greenberg, in granting the University of Notre Dame a temporary injunction against the distribution of the film "John Goldfarb, Please Come Home," and of the book on which it was based, has written an extremely interesting and provocative discussion of the right of property in a name, of the respective bounds of the private right to privacy and the public right to know. Whether his ruling will stand up on appeal is a question; in any case, his wide-ranging opinion must give all in the field of communications cause to think.

In essence, Justice Greenberg held that the producers of the film and the author of the book had used the name and fame of Notre Dame for purely commercial reasons; that the heart of the offense did not lie in the fact that the football team from South Bend was portrayed in a manner which might imply criticism, but in portraying at all for no better reason than that it was famous. This, said the Justice, was "the blatant marketing of another's property."

The clear implication of the opinion is that unauthorized use of the name and symbols of an institution, whether in portrayal or caricature, can be justified if there is a public interest to be served—but only then. Usually, when a private institution or individual is selected as a dramatic theme, either in play or in novel, the subject's assent is secured, or, in the case of

persons, care is taken to assure that the individual involved is beyond reach of the courts. Since "Rasputin and the Empress," moving picture producers have been particularly careful on the latter point. Institutions, too, generally ignore pinpricks. But when does the theatrical imitation of, say, a Harvard accent become a travesty on Harvard University and an unwarranted use of one of its symbols? How about Frank Merriwell, who rose to fame on the coattails of Elihu Yale?

There are obscure areas in the realms of privacy and property. Does the public right to know include the public's right to be amused? Doubtless there will be other tests of this principle in other cases—and that of Notre Dame vs. John Goldfarb has not yet run its course. For the moment, it would seem that the safest course for any one planning to use an educational institution as a comic setting is to label it Dear Old Siwash. A pseudonym can cover a multitude of campus sins.