

## FOREWORD

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**THE HONORABLE ALEX KOZINSKI**

CHIEF JUDGE OF THE U.S. COURT OF APPEALS  
FOR THE NINTH CIRCUIT

American democracy introduced a social experiment that permitted people—all people—to speak, criticize, complain, comment, raise new ideas, and persuade others. This broad freedom covers ideas wise and witless, protecting valuable insights along with notions that many find foolish or offensive. The freedom of speech is one of America’s great contributions, and over the course of the twentieth century we can see that motion pictures track the development of First Amendment rights.

Arriving in America from Communist Romania at the age of twelve, I logged in hours of movies and media—more than the recommended dosage. Hollywood films were a primer on Americanism. As my tastes matured I discovered that movies could offer more. *Cabaret* brought vivid scenes of decadent Berlin to light. *Easy Rider* captured youth culture chafing against “the system.” Even *Mad Max Beyond Thunderdome* could be seen to comment on judicial process. There was abundant schlock as well as movies with deeper meanings and worthwhile messages.

Jeremy Geltzer’s *Dirty Words & Filthy Pictures* begins in an era when the country was more insular, at a time when state-run civic authorities held greater control over the intellectual lives of citizens. In the 1910s short films featuring dancing girls were seen as threats to the social order. Legal decisions of the time generally deferred to the moral custodians. Decades later

a new generation of culture police attempted to banish European art films and exploitation B movies from the screen. But by the 1950s a broader construction of First Amendment rights had developed. The range of protected speech expanded, growing alongside technology. Over a century this development charted a course toward greater freedoms, and everyone is ultimately better off when the marketplace of ideas teems with new and innovative voices.

But there are limits, and this is where the courts become instrumental. In determining the constitutionality of a government restriction on speech, the state's interest in regulation is weighed against the value of the speech. It is reasonable to accord greater protection to a nude performer in *Hair* than to a topless dancer in a bar. Drawing legal and cultural lines, digging into the essence of a matter, and reinforcing or redirecting legal precedent are part of the elegance of the law.

*Dirty Words & Filthy Pictures* introduces a new perspective to film-legal history. That Geltzer is a lover of film is evident. His personal relationships with Golden Age movie icons helped inform behind-the-scenes descriptions. As a studio attorney he witnessed the guts of the dream machine. Together these insights generate a new kind of film history: instead of focusing on great films, directors, or stars, Geltzer chronicles what films *could* be made at certain points in history and shows us what was outside the realm that the authorities and courts were willing to accept.

Freedom of speech leads a precarious existence in the best of times. Most Americans consider themselves fortunate to live in a land of liberty where robust speech is allowed and encouraged even if it disturbs others. The freedoms contained in the First Amendment have paid extraordinary dividends for American society even beyond the role of shoring up democratic principles. The First Amendment and freedom of expression may be America's greatest contribution to the arts, and the movies may be the greatest American art form.

When I watch the early Edison-made films once pronounced controversial or offensive, I am amazed to see how much times have changed, for the better and perhaps not so better. Geltzer's entertaining history of American entertainment helps to track changing principles. What the state once banned as abhorrent may be embraced by a future generation as nostalgic. In the end, it is essential that current filmmakers and their legal counterparts continue to push the envelope to raise the free speech challenges of tomorrow.

# *Dirty Words & Filthy Pictures*

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