

1074

1. FILM CENSORSHIP, DIVISION OF — STATE DEPARTMENT OF EDUCATION — AUTHORITY TO CONSIDER TITLE OF FILM AS INTEGRAL PART OF ANY MOTION PICTURE.
2. DIVISION DOES NOT HAVE AUTHORITY TO REJECT A TITLE OR FORCE A CHANGE OF TITLE OF A MOTION PICTURE UNLESS SUCH CHANGE OF TITLE OR REJECTION IS BASED ON SECTION 154-47b G. C.

SYLLABUS:

1. The Division of Film Censorship in the state Department of Education has authority to consider the title of a film as an integral part of any motion picture.
2. The Division of Film Censorship does *not* have the authority to reject a title or force a change of title of a motion picture unless such change of title or rejection is based on Section 154-47b, General Code.

Columbus, Ohio, October 6, 1949

Mr. Clyde Hisson, Superintendent of Public Instruction
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which request reads as follows:

"Some time ago the Division of Film Censorship reviewed and approved for public showing in Ohio, a picture entitled 'One-Third of a Nation,' for which the Division of Film Censorship issued Certificate of Approval No. 35480, dated May 11, 1945. Subsequent to this date, the exhibitor requested approval for a change of title to 'The Houses of Shame.'

"It is the contention of the Censorship Board, first that a title is an integral part of a picture and, second, that the change of title from 'One-third of a Nation' to 'The Houses of Shame' would be highly objectionable in view of the usual connotation which is attached to such a label as 'The Houses of Shame.'

"I shall appreciate an informal opinion which will answer specifically the question:

"Does the Division of Film Censorship in the State Department of Education have authority to consider the title as an integral part of any picture and therefore refuse a change of title which may seem to be misleading or, if necessary, reject the picture for showing in Ohio because the title is not truly indicative of the nature of the picture?"

The provisions of the Ohio General Code relating to censorship of films are contained in Sections 154-47 to 154-47i inclusive. Section 154-47, General Code, provides in part:

"It shall be the duty of the department of education to examine and censor as herein provided, all motion picture films to be publicly exhibited and displayed in the state of Ohio, except motion picture trailers, all of the scenes of which are included in a previously censored film. Such films shall be submitted to the department and passed and approved by it before they shall be delivered to the exhibitor for exhibition. * * *"

Section 154-47b, General Code, provides in part:

"Only such films as are in the judgment and discretion of the department of education of a moral, educational or amusing

and harmless character shall be passed and approved by such department. When a film has been censored by the department of education a certificate showing the approval or rejection of such film shall be issued to the party submitting the film. When a film is passed and approved by the department of education such film shall be given an approval number which shall be shown on the certificate issued by the department of education to the party submitting the film. Such certificate shall also show the *title* of such film and all eliminations ordered from such film by the department of education. For each film so approved there shall also be issued by the department of education an official leader or stamp of approval of not less than five feet in length bearing the words 'Approved by the Ohio department of education' and the number assigned to such film on the certificate of approval. * * * "

(Emphasis added.)

The last above quoted section contains the sole reference to the *title* of a film contained in the sections of the Ohio General Code relating to film censorship. Can it be said that the sections of the General Code as they are now written grant the Department of Education the right to censor the title of a film as well as the actual film itself? In my opinion, they do grant such authority.

First, the phrase "motion picture films" contained in Section 154-47, General Code, can only mean all of the ingredients of a motion picture and is not limited merely to the celluloid from which the pictures are portrayed on the screen. It would be manifestly absurd to contend that the legislature, by the use of the term "films" intended to limit the censorship of the Department of Education to the pictures contained in films and not the dialogue contained in the sound track. It would seem just as absurd to contend that a film which met the requirements of the statute as to pictures and sound track or subtitles would have to be approved by the Department of Education even though the title contained some lewd or indecent words.

Second, Section 154-47b, *supra*, provides in part:

** * * Such certificate (of approval) shall also show the title of such film * * * "

It would be foolish to assume that the legislature intended to require the Department to issue a certificate of approval of a film containing a title which the Department considered to be in violation of the sections of the General Code relating to censorship.

Therefore, it is my opinion that the Division of Film Censorship in the State Department of Education does have authority to consider the title of a motion picture as an integral part of such picture but *only* for the purposes outlined in the General Code, namely, to determine if such title is, in the judgment and discretion of the Department, of a "moral, educational or amusing and harmless character." See Section 154-47b, *supra*.

However, in answer to your specific question, I am of the opinion that the censorship provided for by the statutes establishes a standard based on whether or not a film is of a moral, educational or amusing and harmless character, and that the authority of the Division of Film Censorship does not extend to a determination of whether or not the title of the film is misleading or not truly indicative of the nature of the motion picture, but that in attempting to pass upon a given title the Division of Film Censorship of the Department of Education must be guided by the language of the statute as contained in Section 154-47b, *supra*.

Respectfully,

HERBERT S. DUFFY,
Attorney General.