

# Court Bars U.S. Printing Of Hill 'Radical 65' List

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U.S. District Court Judge Gerhard A. Gesell issued a permanent injunction yesterday against the printing and distribution at public expense of a congressional committee report listing 65 "radical revolutionary" campus speakers.

It was believed to be the first time in the nation's history that a judge had prevented publication of a document of Congress.

Gesell's ruling, on a suit brought by the American Civil Liberties Union earlier this month, quashed the House Internal Security Committee's

"Limited Survey of Honoraria Given Guest Speakers for Engagements at Colleges and Universities."

He declared in a lengthy opinion that the report "has no relationship to any existing or future legislative purpose and (was) issued solely for... exposure or intimidation."

Directed specifically at the public printer and the superintendent of documents, the injunction declared that any issuance of the list of speakers at public expense, except during "normal publication" of the Congressional Record, would be illegal.

It included a ban on special reprints or excerpts from the Congressional Record unless they are paid for with private funds.

Gesell carefully sidestepped a direct confrontation between court and Congress by dismissing the ACLU's action against the Internal Security Committee itself, its members and its staff.

But he warned Capitol Hill that "it is alien to any legitimate congressional function, as well as contrary to our most established traditions, for any committee of the Congress to disseminate lists designed to suppress speech."

Careful reading of the report, he said, showed that its only purpose was "to inhibit further speech on college campuses by those listed... and others whose political persuasion is not in accord with that of members" of the generally conservative committee.

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The report, which committee chairman Richard H. Ichord (D-Mo.) had already distributed to the press despite Gesell's earlier restraining order, directs the attention of parents, alumni and students to what it calls the "Pied Pipers of pernicious propaganda."

Ichord's staff said yesterday he was campaigning for reelection in Missouri and could not be reached for comment.

A committee spokesman promised, however, that the Gesell opinion would be "brought to the attention of the House when it returns" from its current campaign recess.

An aide to Public Printer Adolphus N. Spence II said that in light of Gesell's decision, he would withhold action on the committee's request for 6,000 copies of the report pending the return of Congress.

At that time, the printer's

"board of directors"—the Joint Committee on Printing—will be asked to provide further instructions, he said.

Spence immediately requested that the Justice Department appeal the ruling to the U.S. Court of Appeals, but Deputy Assistant Attorney General Kevin Maroney, who argued the case before Gesell, said a final decision on that move would be up to Solicitor General Erwin Griswold.

In refusing to grant the ACLU's request that all members of Congress be totally prohibited from publishing or quoting the report, even at their own expense, Gesell stressed that "members of Congress have the same right to speak as anyone else."

His decision would allow, for example, unlimited citation and discussion of the report on the House or Senate floor, as well as quotation in campaign or other public speeches.

The closing paragraphs of Gesell's opinion were an appeal to Congress:

"There are times of stress when our most cherished institutions are threatened by extremists of many different persuasions... The right of free speech and assembly must be jealously safeguarded by all branches of government to the end that the inter-

change of ideas and discussion, not violence, shall fashion the future of this democracy."

Noting "the increasing tendency of the legislative branch to investigate for exposure's sake," Gesell warned that "the marketplace of ideas cannot be closed and all branches of government must in the last analysis depend on the common sense of citizens."