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# Happy Birthday, Big Brother

By ALEXANDER C. HOFFMAN

It is hard to believe that as we approach the 200th anniversary of this country's founding the F.B.I. and the Justice Department are compiling lists of contributors to a church and it is again necessary to worry about religious freedom, freedom of association and freedom of the press. However, when one considers the actions of the Justice Department against the Unitarian Church and its small book-publishing arm, The Beacon Press, one feels both dismay and outrage. Briefly, this is what has happened.

In June 1971, after excerpts from the Pentagon Papers appeared in The New York Times and other newspapers, Senator Mike Gravel of Alaska placed the complete papers in the public record before his Senate subcommittee and released copies to the press. In July 1971, Senator Gravel approached the Unitarian Universalist Association and its publishing arm, The Beacon Press, concerning their willingness to publish the papers in book form in order to make the complete record available to the public in schools and libraries. The same month Bantam Books published a single volume condensation.

In August, Beacon agreed to proceed with the project and announced their intention to publish. On Oct. 10, 1971, the Government published its own edited twelve-volume version. Finally, on Oct. 22, 1971, Beacon published its four-volume edition which was drawn entirely from the public record established and furnished by Senator Gravel. What followed is frightening.

On Oct. 27, F.B.I. agents appeared at the bank of the Unitarians' and Beacon in Boston and demanded copies of all records of both organizations for the period June 1 to Oct. 1, including sources of contributions and income to the Unitarian Church and Beacon as well as disbursements. The bank did not comply until Federal marshalls presented a grand jury subpoena on Oct. 29, but then did so without notifying the church or Beacon of what was going on. They were notified by an official of the bank informally about a week later. Later, Gobin Stair, director of Beacon Press, and another Unitarian church official,

were subpoenaed to appear before a Federal grand jury considering criminal charges against them.

On Nov. 5, 1971, with the help of Senator Gravel's attorneys, the Unitarians and Beacon were able to obtain a temporary court stay of the F.B.I.'s activities at the bank pending resolution of Senator Gravel's appeal to the Supreme Court that concerned both his Congressional immunity and the extension of this immunity to Beacon. The grand jury subpoenas were also withdrawn pending outcome of this case. On June 29, 1972, the Supreme Court ruled 5 to 4 against Senator Gravel, and on July 24, 1972, the last of the temporary injunctions ran out. The Justice Department is now free to resume its pursuit of the case, and it appears it intends to do so.

Two things are important to understand about this case. First, what is at stake here transcends party politics (I happen to be a lifelong Republican) and does not involve the difficult judgment concerning the propriety of the original release of the Pentagon Papers. For better or worse, the papers were in the public domain from the outset of Beacon's involvement in the project. They view putting this information in book form as a public service, and they will undoubtedly lose money on it.

Second, it follows that what the Government is doing in this case is using the grand jury process to harass, intimidate and thereby restrict the broader dissemination of information *already in the public domain* which the Government does not want to have broader circulation. There are already a number of indications it is succeeding:

- Many inquiries from Unitarians who are aware of the situation as to whether one's name will appear on an F.B.I. list if he purchases the books;
- Almost complete lack of coverage of this case in other media, particularly broadcast media, although it has been brought to their attention through the Association of American Publishers;
- Reluctance of people to apply for jobs with the Unitarians and Beacon;
- Potentially disastrous legal costs.

This case is a threat to the entire

publishing industry because it provides a chilling example of how the Government can make any publisher, large or small but particularly small, hesitate to publish controversial material even after it is in the public domain if they can be subjected to the harassment and cost of grand-jury investigation and the sweeping stigma of "possible criminal activity." (In this case the Justice Department will apparently claim that Beacon was guilty of criminal activity in acquiring and not returning stolen Government documents, even though the entire contents of their books were already part of the public record—a line of reasoning that suggests either Lewis Carroll or Joseph Goebbels.)

I believe that we can ignore this as someone else's problem only at our own great peril. A precedent like this must not go unchallenged, and perhaps the best challenge is the strong expression of public opinion.

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