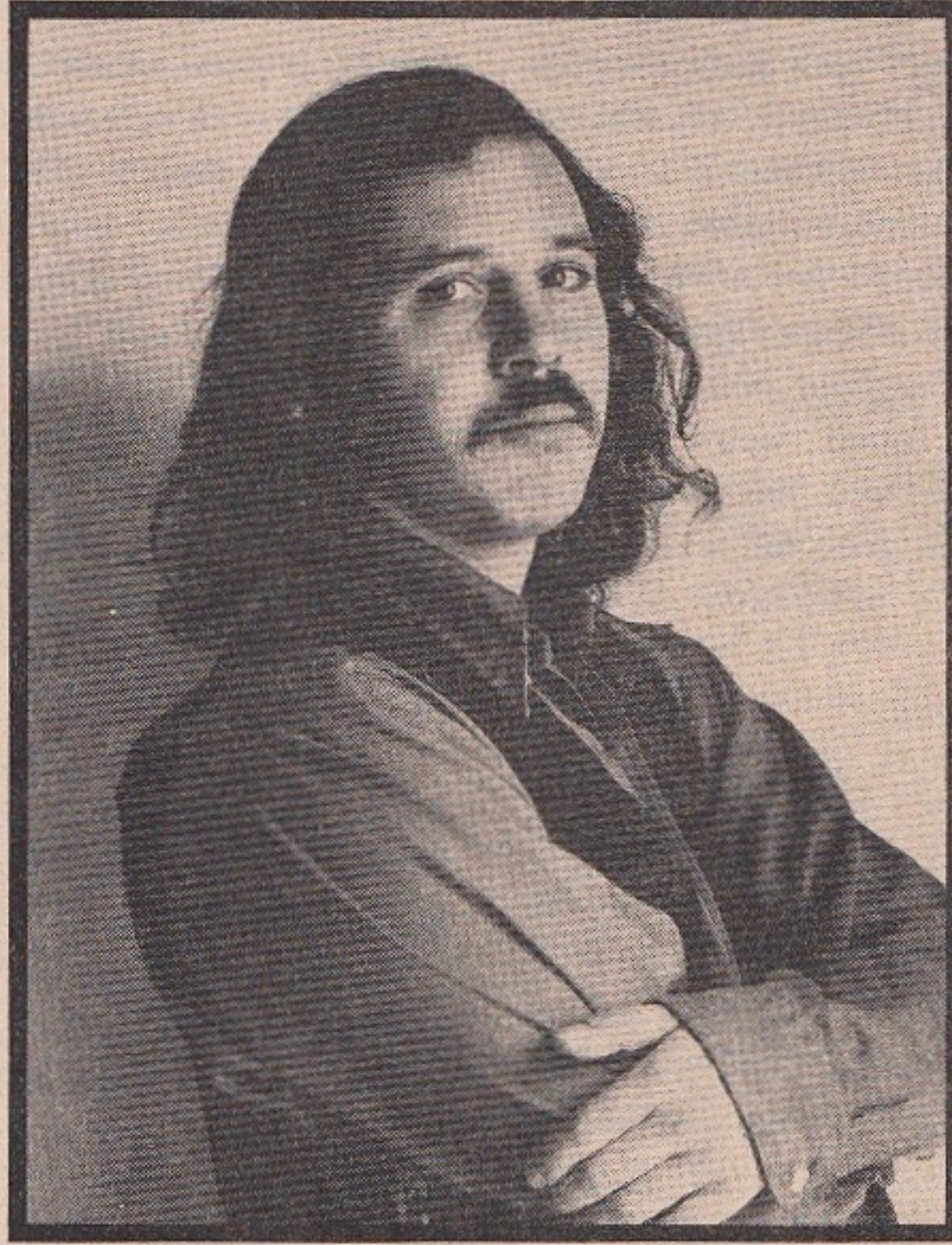


Can this long-haired youth
expect a fair day in court
in the United States of America today?



No.

'This day came the Defendant, Michael Gayle Gallahan, charged with violating the terms of his probation and presented a weird and undesirable appearance resulting from uncut hair and unshorn beard similar to a cross between an Angora goat and a baboon and he is adjudged in contempt of this Court for his appearance and remanded to jail until next Thursday or until he shall obtain a shave and haircut before that time, in which event he shall be released for his appearance for trial in this Court.'

[A WEEK IN JAIL INSTEAD]

THE QUESTION BEFORE US today, ladies and gentlemen, is whether it is possible for a long-haired freak to get a fair day in court in the United States of America. Can you—you there, young man, with your shoulder length hair and fringe—can you

go into court looking like *that* and expect the judge and jury to treat you fairly?

Consider the case of Michael G. Gallahan v. the Commonwealth of Virginia.

Michael came before the juvenile court in Fredericksburg, Virginia, accused of violating his probation (on an

by John Burks

earlier rap) by breaking curfew. Curfew in Fredericksburg falls at midnight, and the cop who nabbed Michael came to court to admit his—the cop's—error. It seemed that the precise hour of the curfew bust was 11:30, half an hour before midnight. So the whole thing should have ended right there, and Michael should have been free to go home.

Instead, Michael spent a week in jail.

Michael's sin, in the eyes of Judge Francis B. Gouldman, was his long hair, mutton-chop sideburns and beard. In fact, Michael Gallahan's hair—at the time he appeared in court, September 17, 1970—did not even hang over his collar in back. (His own attorney, Phillip J. Hirschkop, wore his hair substantially longer than Michael did.) And Michael's beard was neatly trimmed and no more than an inch long. But Judge Gouldman flipped out anyway. He dropped the violation of probation charge, but ordered that Michael should remain in jail *without bond* because of his appearance, which the judge found "weird and undesirable resulting from uncut hair and unshorn beard similar to a cross between an Angora goat and a baboon." Michael was, in Judge Gouldman's estimation, in contempt of court.

[FOUR DAYS ON STEEL]

So Michael did a one-week stretch. (For the first four days he slept on a steel bunk with neither bedding nor mattress.) He could have gotten out earlier by submitting to a shave and a haircut but what kind of bullshit is that? Moreover, Judge Gouldman had clearly put himself in a conflict of interest position by dealing with Michael's case any way at all. Before he had become a judge, Gouldman represented Michael's father as attorney in a divorce proceeding against Michael's mother. This divorce case and the question of Michael's custody was the reason for Michael's probation in the first place.

In response to a challenge, Judge Gouldman finally *did* disqualify himself from trying Michael's curfew case—but held again that Michael was in contempt. Even though Michael had already spent an entire week in jail.

Franz Kafka, are you listening?

The judge sentenced Michael to a ten-day stretch for contempt—on *top* of the week he had already served. That was when Attorney Hirschkop took the matter to the circuit court of appeals, where he argued that American and English jurisprudence lack any standards as to what constitutes "weird and undesirable" appearance, let alone anything that reminds a judge of angora goats and baboons.

[WHY NOT MUSTACHES AND TOUPEES?]

"Michael Gallahan faces ten days in jail," Hirschkop maintained, "because Judge Gouldman either doesn't like sideburns or he doesn't like Mr. Gallahan. . . . If Judge Gouldman can jail people for sideburns and small beards, then why not for mustaches and toupees, or women with jade earrings or men with striped shirts?" The attorney led the appeals court through the following tour-de-force:

It titillates the imagination as to what the esteemed men

of history would remind Judge Gouldman. Thus, President Van Buren might be a Koala Bear, round-faced and tufty-haired on the side, perhaps meriting a month in jail. President Arthur and Oliver Wendell Holmes might resemble crosses between a Moose, a Yak and an European Aoudad, bushy topped with stringy hirsute appendages from their jowls, perhaps meriting six months for their "weird" appearances.

Admiral Perry and General Lee might represent a cross between a Ruffed Lemur and a Panda with indeterminate sentences for rehabilitation. And so, Judge Gouldman might, by his new unique standard of criminal conduct, deem fit to declare Presidents William Howard Taft, Benjamin Harrison, James Garfield, Rutherford B. Hayes, Ulysses S. Grant, James Polk, John Tyler, Andrew Jackson, etc., criminals because of their hair styles. He might mete out five days for a Van Dyke beard, ten days for muttonchops, thirty days for hair over one's collar, a \$50 fine for mustaches in general, with \$10 increments for each quarter inch length of hair above one-half inch. Fu Manchu mustaches would be an automatic \$100 penalty. Penalties for combinations of any of the above are not readily fathomable.

Obviously, these standards are ludicrous and by their nature demonstrate the denial of due process in punishing for the appearance of someone's hair to satisfy a judge's personal taste.

If the circuit court judges had not agreed and set Michael Gallahan free, Judge Gouldman might (who knows?) still be holding Michael in jail.

[OUT ON HIS ASS]

IF YOU THINK THAT'S WEIRD, consider the Court of General Sessions in Washington, DC. One judge there (named Sorrell) makes it his practice to eject attorneys from the courtroom who are wearing striped shirts and are therefore in contempt. Another judge in the same court—Judge Charles Halleck, 40-year-old son of ex-Congressman Charlie Halleck—wears bell bottoms beneath his judicial robes, and tops it with a lush, well-groomed beard.

"He wears clothes to court that, if I wore them in front of this other judge—Sorrell—I'd get thrown out on my ass," says Hirschkop, who has offices in Fairfax, Va, and practices in DC. "And they're both in the same court!"

So much for the even-handedness of our judicial system. Given the quirkishness of individual magistrates, how *should* a lawyer advise his client to look in court? Phillip Hirschkop (who has represented Rap Brown, worked with William Kunstler on Movement cases, and, as a member of the American Civil Liberties Union's national board, has worked on prisoner relations throughout the East and South) stresses that everything depends on what part of the country you're in.

"I've got the kinkiest Jewish natural you ever saw," says Hirschkop, who wears his beard in a Van Dyke, "so

there's no way I can look any freakier than I do. In the deep South, when we were first trying the Rap Brown cases, judges used to stop me all the time and ask dumb shit questions like, 'Doesn't that beard *itch*, Mr. Hirschkop?' This would disrupt the whole train of thought I'd set up, and often I'd have to start all over again."

He wears a suit and tie to court, and also boots. Often he sports a large peace medallion (on a silver chain) over his tie. "I can't worry that much about the effect on the judge and jury. In the great majority of my cases they're set against you anyway. I think it *helps* to freak them out a little. It's a way of telling them that there's a solidarity between me and my client and they've got to take us seriously."

[A MATTER OF SURVIVAL]

The attorney has given up trying to tell his "peace people" clients what to wear to court—for fear of getting bashed in the mouth. "But if it's a kid who ripped off a motorcycle, I *tell* him to show up in a coat and tie." If it's a drug bust and the defendant wears his hair freaky, Hirschkop tells him to wear a wig. "And they do it," he adds. "It's never a matter of principle with these guys, it's a matter of survival."

Down South, Hirschkop would prefer that his clients look as oafish as possible. He advises them to get a crew-cut, wear a sport coat and non-matching slacks (with brown/blue or brown/green combinations favored), white shirt, tie, "and they should just generally have the look that they're ready to go out and kill some blacks."

In Washington, DC, it's a wholly different matter. "You get a lot of all-black juries in Washington, and it doesn't hurt if your client comes on something like a dude. But no bell-bottoms. They hate hippies." In New York and California, Hirschkop feels an attorney can successfully present a "fairly mod-looking guy to a lot of those juries. Except for places like Orange County. There you have to use some common sense."

I asked Hirschkop to envision a client with hair to his shoulders, wearing Levi's and Levi jacket with T shirt and boots. No beard. This, I suggested, might be a normal mode of attire for a large number of young people. Is there, I enquired, any place in the country where this cat could show up in court, dressed the way he normally dresses, without prejudicing his chances? "No place that I've practiced," said Phillip Hirschkop. "Probably not."

[SCHMUCKS, SHE CALLS THEM]

THIS IS WHY ANN GARFINKEL, of the New York firm of Lefcourt Garfinkel Crain Cohn Sandler Lefcourt Craft & Stolar, calls her clients "schmucks" when they refuse to dress to please the court. LGCCSLC&S represents Abby Hoffman and she is one of three partners handling the Panther 21 case in New York. She is also working on Weathermen cases in Detroit and Chicago.

"My standard instructions are that the hair should be trimmed so it goes no lower than the collar, neat. They should wear a sport coat, shirt and tie. They can wear jeans if they want to, but slacks are preferred. Beards should be trimmed, and they should be clean. Stand up straight, look the judge in the eye and say, 'Yes sir.' I tell them if they don't, they're schmucks. But I represent schmucks, too. I don't draw the line—they do."

Miss Garfinkel's female clients in Detroit and Chicago are all wearing skirts rather than jeans. "I *made* them wear skirts," she says, "and they understood. The reason you do it is that when you're in court you're meeting the system. The system wants you to work with the system. With clothing, that means dressing in a way that shows respect for the court. If you choose not to, you can expect a stiffer sentence at the very least."

[CHUBBY, BUT GROOVY LOOKING]

By her own description, Miss Garfinkel is a groovy looking chick — "a little chubby, but a groovy looking chick"—and when she's going to court in New York she often wears a pantsuit. (In Chicago and Detroit, however, she sticks to a *suit* suit.)

"In some way I haven't quite figured out, it seems to help when I wear a pantsuit in New York. Because I'm a woman, they'll sometimes make it a little rougher on me in court—if I'm wearing a suit. But if I'm in a pantsuit they don't do that. They don't ask me any questions. Maybe they figure if I'm wearing *that* outfit to court I must know what I'm doing."

Working in her law offices, Miss Garfinkel wears the clothes she's most comfortable in: jeans, T shirt, often no bra. If these are the clothes she's happiest working in, I asked her, why not wear them to court?

"Because I don't really *care* what I wear to court," explained Miss Garfinkel. "I care about getting *results* in court. You wear different clothes for different reasons. There are clothes you wear to go dancing, clothes you wear to church, clothes you wear to seduce somebody. You dress according to what you want to get."

[HERE'S WHO I AM]

UP UNTIL THREE YEARS AGO, Texas Attorney Warren Burnett insisted on "controlling all aspects of his client's courtroom demeanor—including, of course, attire. "But I've undergone a considerable metamorphosis in the last three years," says the dean of Texas civil liberties lawyers. "I don't try to tell 'em what they've got to do anymore. I *do* try to make them extremely sensitive to the importance of putting up a proper appearance in court."

In a recent speech before the Texas bar association in Austin, Burnett said that more and more of his clients are deciding that they'll arrive in court "as-they-are."

"They're saying, 'Here's who I *am*, as I am I come, take me as I am,'" he told me. "They tell me this after I've

apprised them of the risks, and I must say that I have the greatest admiration for people who have this courage. I'd say that over a third of my clients are doing this, and this is in Texas."

Burnett never has any question in his own mind as to how the jury would *like* his defendants to look. "Any lawyer anywhere in the Southwest who's doing his job knows what the makeup of these juries is going to be. These are ranch people with a ranch mentality. You ask yourself what would they want their son or daughter to be. When I *am* able to control my client's appearance, we try to have him look as much like a young 4-H'er as possible. The judge and jury won't have any trouble that way."

As for his own attire, the Texas attorney never wears anything the least bit far out into the courtroom. "Wouldn't even think of wearing anything other than the standard business suit," he says. "I would just hate to think that I had done anything that might cause my client to lose. If we lose, he's going to serve time, not me."

Burnett is moderately depressed over the outcome of a Texas longhair case in which Supreme Court Justice Black last month played a part. At issue was whether an El Paso student could be allowed to wear his long hair to school—Coronado High School, in what Burnett calls El Paso's "silk stocking" area. The case was brought by the father of student Chesley Karr against the principal of the school, and the lower court had upheld the student. Meaning that his long hair was okay.

[FATHER KNOWS BEST]

But when it got to the Fifth Circuit court, Justice Black took it upon himself to vacate the case—meaning that he overturned the decisions of the lower court. The effect was to say that the high school was right and could continue to enforce its own dress codes.

Black, a crusty old reactionary (on students' rights), says in his written opinion on the Karr case (which Attorney Burnett considers "very significant" in terms of its effect on other long hair cases in the Fifth Circuit) that the whole longhair issue is too trivial for the Supreme Court to mess with. He thus reinforces the traditional view that young people can legitimately be deprived of their right to self-expression by elder authorities. Father (in the form of the school district) knows best.

[A FOUR PRONGED ATTACK]

THE CASE OF ROBERT OLFF V. East Side Union High School District (of San Jose) has got all the makings of a milestone case, if the judges rule in favor of Our Side. The lower court ruled that Olff, who in 1969 was a 15-year-old high school junior with a natural hairstyle, should be allowed to get his education, and the school district's dress codes be damned. The school district appealed up to the Ninth Circuit.

The ACLU attorneys who prepared Olff's brief, Paul Halvonik and Charles Marson, have presented a broad and national range of precedents supporting their client's right

to wear his hair any way he likes. Theirs is a four-pronged attack which says that:

1—*Hair fashion is expression protected by the First Amendment to the United States Constitution.*

2—*Dress codes like the East Side Union High School District's are an infringement of Olff's right of privacy.*

3—*The District's hair regulation is unconstitutionally overbroad.*

4—*The regulation denies equal protection.*

This last point explains why so little of this RAGS report has dealt with women: longhair girls ain't got no problems. Neither do shorthair girls. Ladies can generally wear their hair any length they like, and the Olff argument says that men should be allowed to also, without *any* legal or quasi-legal sanctions against them.

It will be a matter of months before the Olff case (plus another that has been paired with it, stemming from a longhair expulsion at Saddleback Junior College in Southern California) gets a decision from the judges. But the school authorities have presented a weak case in their own behalf, and it seems likely that the outcome will set the stage for a Supreme Court test.

[HAIRCUTS FOR THE PENALTY]

IN THE STATE OF OHIO, THERE'S NO way you can go too far in the direction of toadying to the court. There are, in the Buckeye State, plenty of judges who sentence defendants to have their hair cut for misdemeanors. Sentences are suspended on the condition that the miscreant stop being a longhair, according to the executive director of the Ohio ACLU, Benson Wolman. Judge Wilbur Shaull, of the Franklin County Municipal Court in Columbus, regularly includes haircuts as part of his sentences.

"People sentenced to city jail regularly have their heads shaved—ostensibly for health, though that's preposterous, since they only shave the men, not the women," says Wolman, whose moderate-length hair (just over the ears) would not pass the dress codes in any Columbus high school. "They shave the most heads of all when the arrests are for what they call 'campus unrest.'"

A couple of years ago, Wolman toured four sections of the country, observing court procedures (Ohio, parts of West Virginia, San Francisco and Baltimore, Maryland), studying how a defendant is treated when he shows up in court with an attorney, as opposed to coming to court alone. He found that in Baltimore and in San Francisco, lone defendants got reasonable treatment. But in Ohio and West Virginia, the judges were a lot more impressed if the defendant had representation.

"To them, the rationale is that this man is showing that he cares, that he has some respect for the system," says Wolman. "It's a matter of their showing fraternal deference to their fellow attorneys. In the same way, you can just tell that they're more respectful of people in respectable clothes and short hair. Freedom of expression and

the right to lead your own life the way you want to—those ideas are too abstract for some of our people to acknowledge.”

Still, tastes and values are changing even in Ohio. A Columbus judge recently acquitted an Ohio State football fan who was busted for driving to last fall's Michigan game with a FUCK MICHIGAN bumper sticker. The judge ruled that the sentiment was neither against prevailing community opinion, nor could the concept of engaging in sexual congress with the entire State of Michigan be held to appeal to prurient interests.

In the end, there's no telling what a judge will stand for.

[RAGS PHONES JUDGE SHAULL]

IF YOU HAVE GOT A COURT date coming up and—the hell with making a statement on behalf of the Alternative Lifestyle, Peace, Love, Beauty, Nature, the First Amendment and all that—if what you want is to win your case, then consider Wilbur Shaull, the judge in Columbus who sentences people to haircuts (though he wouldn't exactly admit it when I phoned him to chat). Pretend that Judge Shaull is the judge you are going to have to face. This report is about to conclude with a small excursion through the mind of Judge Shaull, and the best way you can use it is to dig him and where he's at, and then, when you get to court, make sure you look like Wilbur Shaull would want you to look.

I phone Judge Shaull. Judge, says I, we're doing this story about longhaired youth and whether they can get a fair trial if they come to court with long hair, neatly trimmed.

“Well, I guess some of these kids are okay, but . . . the ones that come in here that are longhaired, filthy and actually *stink*—a lot of them are still hooked on drugs as they stand there. I think they've had brain damage. It's this LSD, *acid*.”

“Now I've seen heroin cases where after they're cured of it they're perfectly normal and they can think straight. But this LSD does permanent damage. I just think that the ones who come into court dirty and filthy and in those clothes they wear—the dress on the outside pretty well indicates what they've got inside them.”

Then juries and judges *are* affected by the way people look?

“Juries are affected, judges are affected, sure. Even as hard as I've tried—you're *human*, you may not *think* you're doing it, but surely we're all affected by the way a person *looks*.”

[THE MOST OBJECTIONABLE WORD]

Judge Shaull explains that it's up to the jury to determine how much credence to place on the testimony of each witness, including the defendant. The judge reaches into a desk drawer for a typewritten copy of the statement he reads to juries concerning the credence of witnesses, and reads it to me.

It says juries can take all manner of considerations into account (reasonableness, bias, behavior) when they are deciding a witness' believability. Nowhere does this statement say anything, one way or the other, about long hair or unconventional attire.

“Have you ever heard of Bill Bright's Campus Christian Crusade?” he asks. “They're fine young people. We've got some of them at the university. I'm very much impressed with them. They don't go around looking like these hippies. They handle themselves nicely, make a good appearance.”

Judge Shaull does allow that different judges see these things in different ways. “We've all had different background and training,” he says. “Why, one of our judges here allowed that a four-letter word—the most commonly used word, I'm sure you know the one I mean—he ruled that it wasn't obscene! I just cannot *believe* that! Imagine! “Now to me, that word—when you put the word ‘mother’ in front of it—is the most objectionable word that I have ever *heard*. That affects me more than any other word. And now if you can use it on a bumper strip, why, you could do it to Nixon or the Pope, or anybody!”

“There's so much of this pornography around now, such loosening of moral standards. It's unbelievable. I call it soul pollution, and it's worse than any other form of pollution, believe you me. I don't know; for example, if you have ever seen one of these pornographic magazines—?”

What about them?

“Well, one of them came my way—a lesbian magazine. Printed in beautiful color and it's these two women, page after page, and they're going down on each other. It's the most disgusting thing I have ever seen in my lifetime. You mean you've never seen one?”

[THIS WAY TO SODOM AND GOMORRAH]

But how does this relate to Judge Shaull's courtroom activities?

“I believe that this nation is going down the sewer. Why, you hear it in the music, you see it in the movies and the plays—this *Hair* is coming to Columbus, it appears, with all that sexual content! Our vice captain at the police department went up to Cleveland to see it and to see whether there's some way to stop it.”

But hasn't *Hair* played all over the United States?

“Well, it started in New York. Anything goes in New York, and San Francisco, and places like that. I believe America survived because we're a God-fearing nation.”

And this relates to longhairs in court?

“I believe that dress is indicative of the moral fibre of a country. And we're seeing so many of these people coming before us who are dirty, who have this real dirty hair, long hair, and they stink, and I *worry* about our future. Boy, I'll tell you—with all this pornography and filth that we see today, Sodom and Gomorrah's going to look like kid stuff compared to where *we're* headed!”