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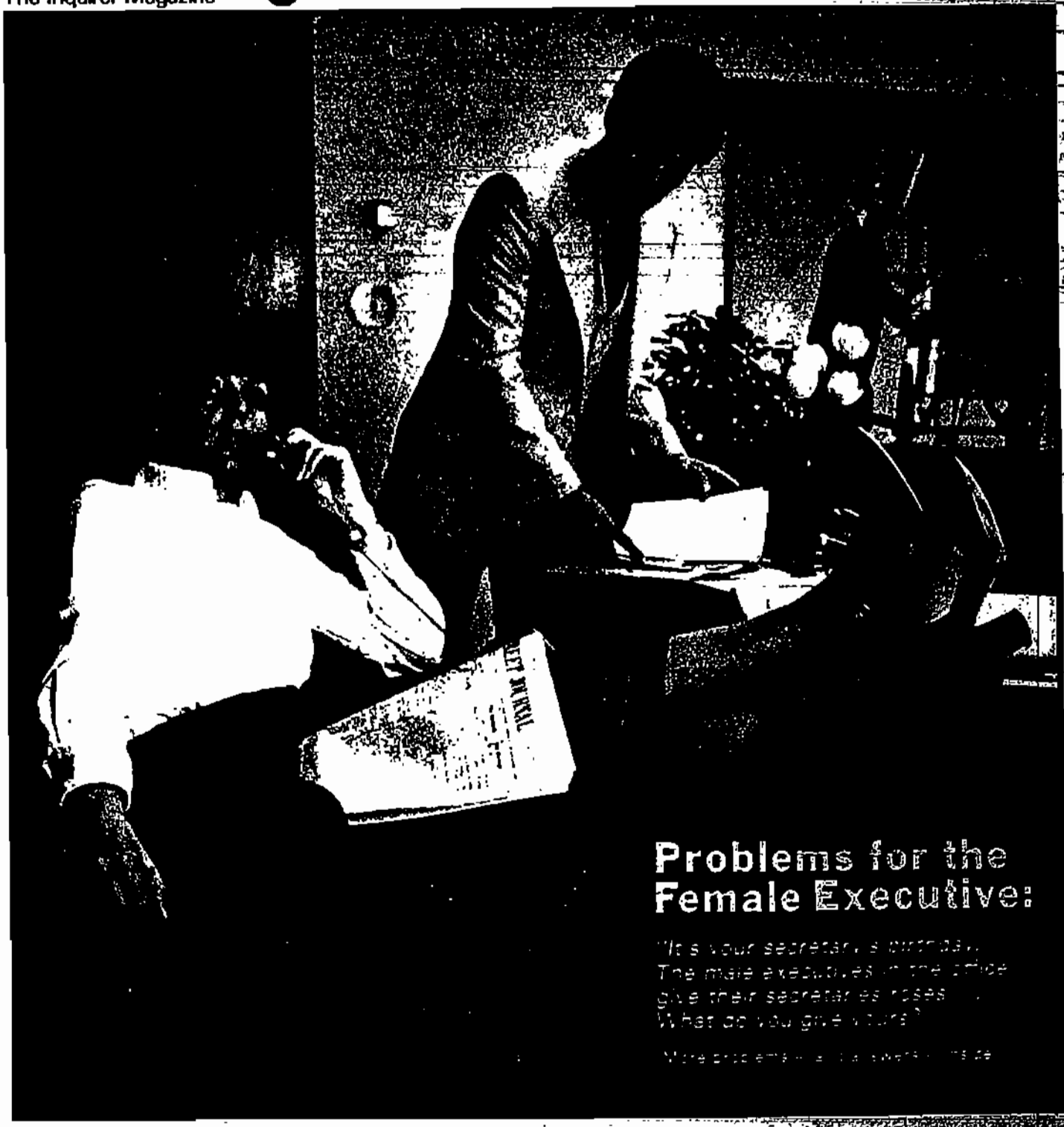
The Inquirer Magazine

May 15, 1977



Problems for the Female Executive:

"It's your secretary's birthday. The male executives in the office give their secretaries roses. What do you give yours?"

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May 15, 1977

From Stockbroker to Pornbroker

By JACK SMITH

"It's a witch-hunt," he had said on the phone. "McCarthyism, Sacco and Vanzetti and the Scopes trial.

"And I'm one of the few people who knows what these unscrupulous, publicity seeking authorities are doing to Free Speech in this country."

The speaker, Tony Battista, was obviously more sensitive than most of us to the erosion of constitutional rights, particularly the First Amendment. But then, Tony is not only a concerned American, he is also a convicted pornographer. On April 30, 1976, a federal court in Memphis found Tony Battista, 11 other men and four corporations guilty of conspiring to transport obscene material, to wit, the movie *Deep Throat*, into Tennessee.

"Yeah, the judge's charge to the jury took three and a half hours and they deliberated the obscenity charge for 10 minutes," Tony continued. "Does that sound like a setup, or what? If it weren't for the Supreme Court, I'd probably be in jail right now.

"Tell you what, meet me downtown tonight and I'll fill you in on the case. What those federal prosecutors did was a crime."

A few hours later, the windshield wipers whisk away the spring mist with an intermittent swoosh as I head south on the Schuylkill Expressway. The approaching traffic glows orange against the encroaching dusk; beyond, the road sweeps indistinctly toward Philadelphia. Once past the bulldozers and scarred earth that herald the Blue Route, there is little along the route that has changed in the past 10 years. Nearer the Belmont exit, to the left, the ruins of former mills and warehouses glide past as ever, an Acropolis of the ordinary.

On this night it's almost heartening to see that some things haven't changed since Tony and I first met.

It was December 1968. The holiday season was in full swing. The inauguration of President elect Richard Nixon was only a month away, and the nation was in a period of wartime prosperity.

This, coupled with the promise of a close to the conflict in Vietnam, generated a mood that was optimistic, almost carefree. America's pulse was racing, a fact that was evident to anyone in a front-row seat at what was then one of the most popular, fast-moving shows in town. The lunchtime crowd was generally a mixture of young and old, with men far outnumbering a handful of women. Here we would sit, attentions riveted on the figures that went dancing across the screen. After all, where else could one find his wildest fantasies so graphically depicted — or at least share in the fantasies of others — as on the electronic tote board of the New York Stock Exchange at the F.I. duPont Co. on Chestnut Street.

From Pasadena to Kennebunkport, Middle America — yes, that same Middle America that, when vested in the toga of Presbyterian morality, might eschew the lottery, condemn horse racing or spurn roulette — was learning how to day-trade, to pyramid on margin, to sell short.

Even trust fund managers were replacing standbys like AT&T or General Motors with obscure issues bearing names that hinted at scientific breakthroughs or fat aerospace contracts.

P/E ratios, first issues, convertible bonds. They all belonged to an Esperanto common to taxi drivers and neurosurgeons, cafe society and union halls.

The employment rolls of the larger brokerage firms were just beginning to reflect this New Populism on Wall Street. And a registered representative was just as liable to have a background in aluminum siding sales or in hawking Bibles door to door as in Keynesian economics or steeplechasing.

For Tony Battista, freshly inducted into the mysteries of portfolio management, it was the American Dream all over again. His more blase fellow brokers might dismiss his employer, that same F. I. duPont, as the Korvette's of Wall Street, but to him the atmosphere seemed thick with the aroma of high finance and the promise of cricket clubs, yachts and fox hunts. All of it was very heady stuff for a young man from West Philadelphia who a year earlier would have defined a socialite as anyone who owned a tennis racket.

Tony Battista was my broker, and he seemed to move through his setting like an American tourist through the Prado in Madrid — impressed, but not really influenced. He knew he would always prefer bocce to squash and backgammon. The first member of his family to attain a college degree, he wouldn't pass up the easy sociability of a Big Five basketball game for a millenium of Assemblies. Let others enjoy the trappings of success; he hoped to catch a small piece of the substance.

But this modest ambition would prove elusive — as elusive as the light at the end of a tunnel that wound like some cosmic Moebus strip to the rice paddies of Asia.

Four years later, as the presidential campaign of 1972 approached, Washington and Wall Street alike were sending signals that things were tightening up — announcements of declines in the rate of growth of the gross national product; demands to put up more cash when buying on margin. Within another year, disappointment had congealed to cynicism.

Agnew's resignation, Nixon's complicity in the Watergate coverup, the first glimmerings that we had achieved something less than "peace with honor" in Asia, and evidence of corporate corruption from Lockheed to Penn Central — they had all chipped away at the Republic and eroded the Dow Jones gains.

Yet even as the boom in stocks began to fade — and Tony Battista's dreams with it — he found himself confronted with a unique opportunity: the exclusive rights to a venture that was destined to become a blue-chipper. Suddenly fate had placed him again in the fore of the next growth industry.

Tony had been working for another brokerage firm when a Florida-based [illegible] personal friend telephoned to ask if he would be interested in taking over the distribution of *Deep Throat* in eastern Pennsylvania, New Jersey and Delaware.

Tony had to think it over, of course. He hadn't worked and studied and waited to become a stockbroker just to wind up handling stag films. But, then, he had been at the duPont brokerage when that firm began to founder like a corporate Titanic, and the management at his present firm already seemed to be edging toward the lifeboats.

He would give it a try. And in the ensuing eight months, while he still kept his day job as a stockbroker, he took over distribution of other such favorites as *Wet Rainbow*, *Memories Within Miss Aggie*, *Lialeh*, *Devil in Miss* [illegible]

JACK SMITH is a publicist and writer who has learned to expect only the unexpected.

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The big difference between selling stock and selling smut, according to Tony Battista, is the hours. Also, he doesn't wear a tie any more.

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BATTISTA *continued*

Jones and *Portrait*.

By the time Tony and I next met, in March of 1975, he had left the world of Big Business for . . . Big Business. "*Throat* alone grossed a weekly average of $31,000 during its run at the Midtown this winter," he explained at that time, as we climbed the stairs of the Lane Theater on North Broad Street.

The distributor's cut of this, he further explained, was anywhere from 5 percent to 25 percent, "depending on the arrangement with the exhibitor. And then this is shared with Plymouth Distributors, who allot rights to the movie nationally. It's like splitting commissions, just one of the ways that this business is like the stock market. My office looks a little different, though," he said as the door swung open and I entered the nerve center of Philadelphia's most successful pornography operation.

Throughout the room the unrelenting effect was gray. Not battleship gray or dawn or twilight gray, but the kind of dingy gray nouvelle vague filmmakers are always trying to recreate. The general gloom isn't interrupted by so much as a single garish poster, and the cold March afternoon light probes through a tattered windowshade like a disappointed voyeur. Two young girls looked up uninterestedly from a couch where they were slumped in the manner of a pair of draftees taking five before policing the area.

"All right, girls, clear outta here so we can talk," he ordered, and as the door closed behind them he continued, "You know, any time a theater goes into a slump we book *Throat* into it and it gives business a shot in the arm. It [illegible] the most widely viewed movie in the history of movies."

He drew on his Kent and, imperceptibly, shook his head at the wonder of it all. "I don't know if the adult entertainment business is really in any danger of peaking. The only curb to profits is competition from other companies, and I mean your

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Photo by Robert M. Teague

Long before Tony Battista leased the Lane Theater on North Broad Street, pickets were there. When he began live, nude dancing in January 1975, however, the moral fervor reached fever pitch and he had to give it up. Now he runs four similar operations in Fort Lauderdale, Fla.

supposedly very reputable major corporations that are taking a good close look at the money to be made in this business.

"I mean, how much can these flicks cost to produce - $25,000? $50,000? And a handful of them together made over $2 million in Philadelphia last year. Half of that was *Throat*, but how often does the sharpest investor come up with a Xerox or Polaroid?"

The muted whirr of the huge 35-millimeter projector becomes audible from the next room as Tony muses further over the transition from broker to porn king and smutmonger. "Well, it's a business," he comments absently, his gaze wandering to the window overlooking an alley off North Broad Street, then swinging back to his visitor. "I'm not here because I get a thrill out of it, I'll tell you that. Just like the stock market, a business."

All right, I hadn't expected to see him prowling the aisles like a fugitive from Krafft-Ebing, but weren't there any adjustments, some changes in life-styles, occasioned by his new career?

"Well, of course there are some changes. The hours, for instance," he replied. "I have to be here all the time we have a show on, and working at night is a pain in the butt. I never seem to get enough time with my family." A few seconds pass while, presumably, he thinks about his wife and daughter in Upper Darby. I wait for him to continue. He doesn't. I prompt him: Any other adjustments?

"That's about it, really," he said, and seemed to think hard before adding, "No, one other thing. I don't have to wear a suit to the office any more." That's it? The *hours* are the big difference between being bullish on America and pandering to the frustrated libido of the public? How about when he goes to a cocktail party and a well-intentioned neighbor asks what his line is?

"The hours pretty much take care of that, too. If we go out it's to the Italian-American Club, where people have known me for years and don't expect me to turn into a raving lunatic because I've changed jobs. What the hell, you can find sex or obscenity any place you look, if you want to." He picks up an issue of Time lying on his desk and leafs through it. "Like, here, take this ad, where they expect you to buy Black Velvet whisky because they've got this girl looking like she wants you to bring the bottle up to her place. Or the airline campaign, where the girls are always asking you to fly them. If that's not sex, then this is the Free Library."

Then, suddenly self-conscious at this lapse into the sociopsychological implications of dirty movies and whisky ads, he suggests, "Hey, wanna have a look at the live show? Tammy Lynn's on stage now, one of the girls who were just in here."

They were the two headliners? Somehow I couldn't imagine them stoking the fires of passion in anyone except maybe a Clearasil fetishist. How old were they, anyway?

"Wildflower is 19 and Tammy Lynn is 18." Tony held up his hands defensively. "That's the law; they can work here if they're 18.

"Let me see if Wildflower's around. You might want to talk to her."

Five minutes later Wildflower re-enters the room and unenthusiastically informs me she's happy to make my acquaintance. At first, her responses are mechanical; her real name is Kathy Crispalur, she's from Baltimore, she appears in 25 or 30 places a year, she started out as a go-go dancer when she was 16. But gradually she becomes more animated.

"You know, I really think more women wish they had the guts and the figure to get out in front of a crowd and do what I do. You can really feel appreciated when the audience is enjoying your act. And most of the time it's fun,

continued

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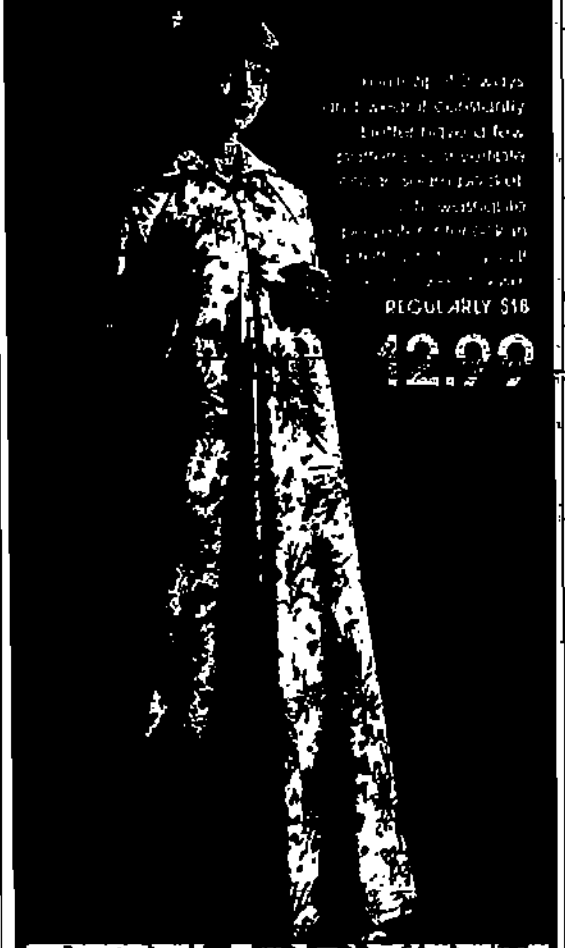

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Puzzle on Page 24

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BATTISTA *continued*

as long as the girls aren't fighting backstage and the manager of the theater is all right."

Wildflower's monologue is interrupted as Tammy Lynn, her performance concluded, makes it a foursome in the office. I find out that I have missed a spectacular display of acrobatics.

"Oh, yes," says Wildflower, "all of us develop a special routine of one sort or another. In this world you've gotta have a gimmick, she comments, wide-eyed. "I'm still working on my own act. I'm having a great big plastic flower built, about eight feet tall. Like a daisy, made of Plexiglas. It'll have a little platform on it and I'll do my act there, with a long stuffed worm."

"The conservationists will love it," observes Tony, blowing smoke rings at the ceiling.

"It's going to cost me $800 but it will be worth it because then I won't have to do any more floor work," she continues.

"Hey, whattaya say we go out and grab a beer," Tony interrupts before Wildflower can elaborate on the hazards of floor work. The girls want to come with us, and Tony says it's up to me whether they should. There's so much to learn and so little time to learn it, I figure the girls should come.

In a few minutes Tony's Thunderbird has arrived in front of one of the more fashionable watering spots along North Broad Street. Tammy Lynn and Wildflower are soon munching happily on roast beef sandwiches as Tony [illegible] host some of his former [illegible] such-and-such still hustling oil leases? Had I bought any municipals from another broker? Was I going to start a college trust fund for my children?

Wildflower looks up from her sandwich. "Oh, are you married?" I answer in my most avuncular tone that I am, indeed. "Too bad," she giggles and returns to her sandwich.

Tammy Lynn wants to know if her name will be in the papers.

"Wildflower got her name in the Daily News this week," she pouts.

Wildflower fishes through her handbag and finds a sliver of newsprint with an observation by Larry Fields that an "oilionaire" from Houston was flying to Philadelphia just to catch her show. "It would be a shame if he came all the way to Philadelphia and then found the Lane closed," she says.

This, as it turned out, was a real possibility. For years, the Lane Theater had functioned as a general-entertainment movie house, showing such fare as *Bambi* one week and *I Am Curious (Yellow)* the next. In January 1975 Tony had leased the theater from the RKO Corp. and reopened it with all-X-rated films and live nude dancers. The majority of nearby residents didn't welcome the advent of "adult entertainment" as warmly as they might have a North Broad Street branch of Tiffany's.

"Well, I guess everybody's heard about the troubles up here. A lot of the natives actually want to close us

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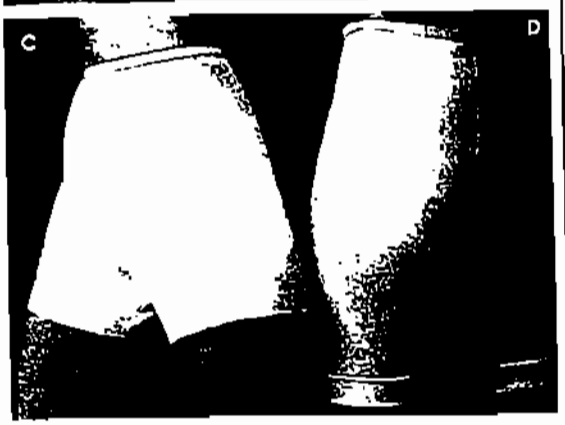

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down," says Tony.

He philosophised that "prevailing community standards" were always going to be a problem, and not just in his business. "Just a few months ago, remember, the Walnut Street Merchants Association was hollering about a McDonald's opening up on their street. 'It'll attract an undesirable element,' they said, 'ruin the neighborhood, be an eyesore.' Can you imagine that, calling people who want hamburgers an undesirable element? I'd expect to find this attitude in Tennessee, maybe, but not in Philadelphia."

It had been nine months ago — July 15, 1974 — that Tony and 11 other men, including Harry Reems, star of *Deep Throat* and *Devil in Miss Jones*, were indicted by a federal grand jury in Memphis on charges of conspiring to transport obscene materials into Tennessee. Tony was philosophical about that, too. "Well, we won't be coming to trial for another year, and a lot can happen in that time. If the Walnut Street Merchants Association can accept McDonald's, maybe North Broad Street and Tennessee will learn to live with X-rated movies. Who's to judge these 'prevailing community standards' anyway?" Not the former stockbroker, as the ensuing months proved. The indignation of the North Broad Street community swelled to outrage. The Lane was the target of repeated picketings and vice squad busts. Not three months after Tony had sat in a Broad Street bar assessing the theater's prospects as a forerunner in the marathon of pornography, he removed the last reel of X-rated film and gave up his lease on the property.

Then on April 30, 1976, Tony Battista sat sweating in a jammed Memphis federal courtroom and heard the jury, after deliberating about 10 minutes, pronounce him and his coconspirators guilty of the obscene materials transport charge. The conviction bore a maximum penalty of five years in prison or a $5,000 fine.

This was a landmark victory over the increasing production, distribution and exhibition of pornography, and it lasted less than one year.

"Dja hear about it?" THUNKA-DUNKA-PING! "The Supreme Court upset the verdict." KLANGPLOCK-APLOCKA! "Two and a half million dollars it cost the taxpayers." KAPLONGA-SMACK! "Fifteen thousand dollars it cost me." KLANG-APING! "And then the Supreme Court voids the basis for the conviction. Isn't that a farce?"

The ball slips into a gap between the flippers as Tony turns to his visitor. Lights flash, bells ring, and the machine totes up another 6,000 points on the scoreboard. It is April 13, 1977. We stand in the lobby of the Golden 33 at 13th and Locust Streets, a joint Tony managed until recently. The anteroom alone would put a Reeperbahn hotel detective off his feed for a week. The color scheme, a roseate smear, seems modeled after a slide section of a malignant tumor. In the adjoining bar, a quartet of girls walk, bounce and writhe through a performance unencumbered by costume or subtlety. Next to the Golden 33, the Lane Theater would look like La Scala.

"Don't get me wrong," Tony continues. "I'm not complaining about the Supreme Court's decision. But, hell, I was on trial longer than Patty Hearst. Ten weeks, four days a week, eight hours a day. And what for? Because I wanted to show a movie, a movie that 25 million people in this country wound up seeing. Are they all perverts? Johnny Carson was talking about *Deep Throat* for a week on his show. Is he a pervert?

"Let me tell you something else. If there's big money in this business, there's just as much money in investigating this business. All you have to do is find a scapegoat. Just ask Larry Parrish, the federal prosecutor in Memphis. His idea was that if so many people want to see a movie like *Throat*, organized crime had to be behind it. So just for starters he got a quarter-million-dollar federal grant.

"He bought cars for his staff, and he flew around the country, to L.A., to Florida, to Denver, and back to Memphis, all the time looking for the Mafia under the seats at X-rated movies. He wound up spending that money, and more. The two-year investigation and the trial cost about $2.5 million dollars to stage a kangaroo court that meant nothing. Zilch. Absolute zero.

"But Larry Parrish, the guy responsible for the whole fiasco, you know what he's doing right now? I'll tell you what he's doing — he's on the lecture circuit. He gets $1,000 a throw to tell sheriffs' conventions, the Rotary, Fruit of the Month Club, whatever, how to fight organized crime. That's like get-

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ting Ted Kennedy to lecture on water safety. It just shows you what a headline-hunting prosecutor can get away with in this country.

"Sure, it was me, and Harry Reems, this time. But what if one of these federal prosecutors doesn't like something you print? Or what if the district attorney disagrees with a news report on television?

"Hey listen, the First Amendment could be in for a rough time in the next couple years. At least in my case, the Supreme Court upheld our rights. *Deep Throat*, the movie we were bringing into Tennessee, had been made in '72, right? And the prevailing community standards rule went into effect sometime in '73.

"Well, Parrish and his band of Merry Men applied this statute retroactively to cover *Throat*. The Burger court ruled just last month that this was unconstitutional, which is what we'd been saying all along.

"Of course, I'm not out of the woods yet. The test case dealt with another film distributor, a man named Marx. My conviction wasn't reversed directly. But let's say for a minute that the Supreme Court did not decide this way. Or maybe, they refused to hear the case. No sweat. We can always appeal, you say.

"So now I want to appeal a $5,000 fine. Now, to appeal in federal court you have to provide a transcript of everything produced at the trial. Well, that sounds fair, you say. But wait — a transcript can cost between $1.50 and $2.25 a page. So, how many pages were there? Only about 40,000. So to avoid paying a $5,000 fine I'm going to pay maybe $100,000 for transcripts?"

From the next room a cheer goes up as one of the dancers favors an admirer with that bit of terpischore known to Marseilles dockhands as "s'assoir sur la noz." Tony continues:

"If the government wants to, we could be brought back for retrial, of course. But my friend Larry Parrish is out now, he was replaced right after Jimmy Carter's inauguration. So it looks like the charges will be dropped. Hell, why shouldn't they be dropped? The President's trying to establish diplomatic relations with Cuba, isn't he? He's offered amnesty to the Vietnam deserters, hasn't he? Even Gordon Liddy's getting his sentence commuted. So maybe the witch-hunt's over."

Tony turns back to the pinball machine, and slings another ball out to carom from bumper to sidewall, flipper to counter, and watches intently, as if seeking a logic, a consistancy that he had failed to perceive in the laws of men.

"Funny," he observes as the ball disappears at the bottom of the playing surface, "the only thing that the indictment and last year's trial really accomplished was to make it tougher for me to get back into the stock market. Last year I tried to get a job with a commodities brokerage, but once they found out I was the *Deep Throat* Tony Battista, they wouldn't touch me."

Wait a minute, is this the same Tony Battista who had told me two years ago that there is no real difference

continued

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Kingston Carver

In some cases community pressure may force the closing of pornography shops or X rated film theaters, but Tony Battista feels they fulfill a need. Why else, he asks, would people patronize them?

BATTISTA *continued*

between the stock market and pornography? The same successful entrepreneur who had told me he was providing entertainment to a broad cross-section of the American public? Who had told me that if I really wanted to see people getting a bad deal I should go to Wall Street?

"Well, it wasn't for the money. I'm making more money now than I would be as a broker. I manage three theaters in Fort Lauderdale, and I'm pulling down, oh, let's just say over $40,000.

"And there's something to be said for the adult entertainment business. It serves a need for a lot of people, and you don't see them going away broke and disappointed, like in the stock market. And it's not like peddling dope. I've never heard of anyone getting hooked on pornography, any more than you get hooked on pinball machines. It's a diversion, pure and simple entertainment.

"But, it's started to change. As long as you're making a picture like *Throat*, you're geared to the mainstream of movie-goers. I mean, everybody can relate to that, can't they? But after a while, audiences start to get bored with straight sex. Crazy, isn't it? Your customers want something a little more far out, kinkier. The demand starts to fragment into different areas, until you don't even

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'What's even sicker is there are thousands, millions, maybe, of people who'll pay to see this stuff.'

know what to show next.

"The last time I saw you, for instance, would you have believed that people would soon be going to snuff flicks? Paying to see a movie that features a girl getting strangled to death? And in '75, you were surprised that 18-year-old girls danced at the Lane, remember? Now some people are making X-rated films with little kids — six, seven years old — in them.

"OK, that's sick, but what's even sicker is that there are thousands, millions, maybe, of people who'll pay to see it.

"Well, so far I haven't seen a demand for this kinda stuff, but still, I don't plan to be in this business forever."

Another ball rolls down to ricochet past a series of metal pins, then bounces repeatedly against a pair of porcelain bumpers, and a KNOCKAKNOCKAKNOCK signals the award of three free games. "Hey, look at that. Let's get outta here, or I'll be playing all night."

A Final Thought on Constitutional Rights

Constitutional rights. Most of us have rarely thought long or deeply about them. Except when being cited for a parking or speeding violation, and reminding a traffic cop indignantly that we have them, the statement of these rights remains a mellifluous rhetoric.

Vital to these constitutional rights are 26 amendments to the United States Constitution, which, like the Constitution itself, are frequently interpreted, defined and given a new dimension by the courts. Some of these amendments attain a greater stature or, to employ a phrase that would furrow the collective brow of the Founding Fathers, a "higher profile," depending on the times.

Scarcely a day goes by, for instance, that isn't marked by the total absence of debate over the Third Amendment: "No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law." No, today it is the "Freedom of Religion, Speech, Press and Assembly Amendment" — the great First Amendment — that is at the top of the list.

This is the amendment often cited to justify activities that range from soliciting money from travelers in airports (by Hare Krishnaites) to voting muncipal funds to build a 30-mile sidewalk to the nearest girls' college (by head-taxed students at a New England college) to the exhibition of obscene material in a neighborhood or the display of pornography, whether through the medium of film or live performance.

It is, in short, the most problematic and paradoxical of amendments, since it implies no limits. One can only imagine, from a reading of recent Supreme Court interpretations of this amendment, nine pairs of eyes rolled heavenward accompanied by the barely audible muttering of "O temporal O mores!" — the subsequent interpolation of which may be, "Ride with the tide, and go with the flow."

And if, to insure my enduring claim to freedom of expression, I must grant similar, if not broader, license to emporiums of live or cinematic pornography, so be it. Truth be told, Justice Holmes notwithstanding, I'm willing to extend such freedom of speech to anyone who runs into such a place, preferably when crowded beyond legal limits, and yells, "FIRE." — *Jack Smith.*

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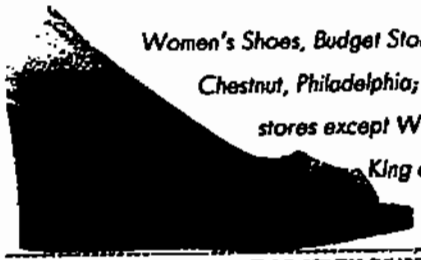

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