

MUSICAL ALIENS KEEP OUT

Ever vigilant to protect the lounge singers of America, the border patrol is blackballing musical innovators from abroad.

by BILL FORMAN

Kevin Lycett, bassist for the Mekons, makes his way through the crowd that packs the tiny Santa Monica record shop where his group is scheduled to perform. Already a half-hour late, the band members chat amiably with their audience while awaiting a missing drummer. "There must be some law about a group of seven people, it is the most difficult organic being to move," laughs Lycett, the beleaguered Brits having already managed to show up late for one soundcheck, two shows, and at least one interview.

Texas Records, though located in Los Angeles, is an appropriate setting for this eclectic outfit, who have taken in recent years to wearing 10-gallon cowboy hats and stumbling through a drunkenly brilliant country-and-western-influenced repertoire. Still, the band won't earn enough this afternoon (or later this evening at their club gig) to "command a high salary." Texas Records doesn't necessarily have a "distinguished reputation." And a clutch of union musicians would no doubt

perform a far slicker version of "Help Me Make It Through the Night."

So what? So all this matters to the U.S. Immigration and Naturalization Service.

Screening musicians, as well as other artists and entertainers, is not among the INS's best-known activities. But the immigration service of today could be screening out the Beatles of tomorrow, especially if proposed new "H-1" visa regulations are adopted.

The H-1 application, a two-page form reserved for "aliens of distinguished merit and ability," remains the only practical means by which musicians can gain entry into this country to do a tour. The proposed regulations would add a checklist of requirements, ranging from the ability to "command a high salary" to the attainment of "extensive commercial success," "national or international acclaim," "significant awards," and "reviews in major newspapers."

The INS says it's all a question of streamlining, of debugging the system of vagueness and potential abuses. But some musicians and members of Congress are

not convinced of the new guidelines' wisdom. These critics fear that the INS will exercise its right to say no to all but the most mainstream artists, ushering in a new era of cultural isolationism.

"Ninety-five percent of the complaints are coming from five percent of the petitioners," argues INS press officer Rick Emmet, who says the artists are protesting regulations that would be applauded by doctors and other professionals. "Now those aren't exact figures," he admits, "but that's where the complaints are coming from."

The INS says it doesn't know whether the percentage of rejected applicants is increasing, as critics speculate. "There's no reason for us to collect that data," says Emmet's colleague Duke Austin. "You judge a case on its merits, not on any quota."

According to Austin, the rationale for



tightening up the regulations is that "before, it was all done on memorandums and policy statements and court cases. Now we've tried to tie that together and walk that fine line between protecting American labor interests and still allowing people who meet the standards to come here and entertain."

The problem is that not everyone agrees with the INS's standards for artistic validity. Tripp Milich runs Artists Against Visa Denials (AVID), a California-based organization of artists, musicians, and club-owners who are part of that vocal "5 percent" Emmet dismisses as overly sensitive. The new regulations will have the greatest adverse effect on "non-mainstream groups with particular types of audiences, whether that be new wave, folk, punk, or *nueva cancion* music out of Latin America," claims the former San Francisco Mime Troupe member, who has helped bring various folk musicians into the country. "And the same is true of dance, theater, etc.—the people most affected clearly are not going to be the Julio Iglesiases of the world."

It's doubtful that the combined tour earnings of the Mekons, New Model Army, Ferron, and Third World (all of whom have had H-1 applications rejected or delayed long enough to result in canceled dates) would come close to the amount of money an entertainer like Phil Collins takes out of the country in one fell swoop. Still, the INS continues to present the regulations as a means of protecting unemployed musicians.

"I submit to you that you would logically understand why we shouldn't bring in 50,000 bricklayers if there were bricklayers unemployed," insists the INS's Austin. "But somehow people have a problem with saying, well, you don't bring in musicians if we have musicians unemployed. And that's the intent of the law. The law says, hey, if you're exceptional, you know, if you just painted the Sistine Chapel, that's different than being just a painter." (Yet the forthcoming INS regulations care more about how much you were *paid* for painting the Sistine Chapel.)

If a band plans to play only to small clubs, they can pretty much forget it.

"There may be some people who get in because they're not competing with anybody," says Austin. "Maybe there's a metal drum band in the Bahamas and nothing like that in the United States. So they're eminent in their field, though very small. But they're not putting anybody out of work either, because there's no metal band here that's being unemployed because of their presence. So in that case, they might be able to make the grade even though it would be a small attraction."

What about basic British rock bands who play the club circuit? "There's rock bands in the United States, aren't there? There's rock bands *all over* the United States. Just because they're a rock band, does that make them eminent? No, I don't think it does. I don't think it makes you preeminent because you're a rock band or because you're a woodcutter."

Gradually the real issue becomes clearer in Austin's words: "I mean, they take the other side of the issue in the actors guild and the musicians union. They say, 'Why are you letting them in

here when we've got just as good musicians here? You're letting them in here just because they work cheaper, that's not fair to us.' And I'd say that's a very defensible position."

And anyway, "being denied for H-1 doesn't mean you can't come. File an H-2 application. If there's a need for your labor, and there's no domestic labor to fill that need, then file an H-2 application and bring in foreign labor."

Unfortunately for these less-than-preeminent artists, the H-2 visa application process requires Labor Department certification, as well as proof that equivalent American performers have been solicited and are unavailable for the dates in question, a tangled procedure nearly as baroque as obtaining a green card.

The unions-and-employment argument is one that AVID doesn't want to take on. "No one's saying the doors should be wide open to every cover band that wants to come in and play the Ramada Inn," counters Milich. "The people we're concerned are going to be kept out are cutting-edge musicians and performers who are creating new music and new art and are offering something intrinsically unique. And it's not just new, it could be doing ancient Celtic folk music, for that matter. But the fact is that a Ramada Inn cover musician is not going to be able to play that stuff. And to think that there are Ramada Inn musicians that *want* to play that stuff is also off the wall. I mean, how many union musicians do *you* know that want to fill in for the bass player in the Mekons?"

To finally get in for their tour, the Mekons "had to supply some additional information," says band member Lycett, whose records are released in the United States on Minneapolis-based independent Twin Tone. "We had to get Doug Simmons, who writes for *The Village Voice*, to write a letter saying that if we didn't come it's the end of Western culture as we know it."

Another British group, New Model Army, was twice denied entry for lack of artistic merit. They finally got permission for an American tour coinciding with their third album. "Basically they got in because the label requested it," explains Jude Hendershott, A&R department staffer for the band's label, Capitol Records. Earlier requests through their booking

This little-known use of INS power could spell disaster for the U2s and Polices of tomorrow.



agent in New York and an immigration attorney had proved futile. "It didn't happen until the label actually got involved, even though the INS knew the band was on Capitol all along and that we had an album on the street and the tour was to promote the album."

How did the INS conclude that New Model Army wasn't artistically good enough? "According to the agent who was trying to get the H-1," says Hendershott, "the INS said that they called the local union, the local 802, and asked those people if they've ever heard of this band. But of course all the musicians' locals are staffed with people that are about 80 years old. And the artistic merit of a band that's not mainstream is somewhat up to the ear of the beholder."

Bandleader Slade the Leveller thinks there's more to it than that. "It's very strange that the immigration authorities should set themselves up as arbiters of public taste," says Slade. "So I think there's a lot more to it than meets the eye, but I'm not really in a position to say what.... Obviously everyone has their suspicions."

But the Mekons, who became identified with the left because of their many benefits on behalf of the British miners' strike, are less suspicious of political motivations, which the INS denies are a factor. "You hear stories about how there's a political edge to the giving of H-1 work permits," says Lycett, "but then it's very hard to get anything to confirm that. I mean, if you're turned down, it's a lot nicer to think that you're red-hot radicals who can tear down the walls of Washington, than that maybe they thought you weren't anybody in particular and didn't want you in."

Hendershott disagrees, even though

the INS let left-leaning rocker Billy Bragg through when New Model Army was being denied. "Bragg is definitely left-wing, but he's fairly quiet in his approach. And New Model Army is fairly aggressive in their approach. In some cases, they're left-wing, but not traditionally. If they *were* Marxists, they *wouldn't* get in. In my opinion, this isn't a free country when it comes to political beliefs, only when it comes to consuming soap."

Politicians are paying attention to the proposed new regulations, too, with staffs for Sens. Edward Kennedy and Paul Simon looking into the matter. The INS fears congressional involvement will indefinitely stall what was meant to be an internal affair.

What happens next? "It's very hard to tell," says the INS's Austin. "Congress has initiated some legislative action to say that they don't want us to publish new regulations and that they may revisit this issue in a legislative manner. But that's where it rests right now."

AVID's Milich remains less than optimistic. When amnesty for recent illegals went into effect in mid-1987, Kennedy's office told him "there wasn't going to be much activity on the H-1, because that was small potatoes compared to the other things the INS was dealing with. But I would say the dust is settling, and I wouldn't be surprised if any day now the INS published their revised edition of the regulations."

But the publication of the new regulations may end up being little more than a formality, for Milich believes the INS is already using their "preeminent" criteria in deciding current cases. This little-known use of the power of the INS could spell disaster for the U2s and Polices of tomorrow, groups who build their followings from the ground up through low-profile tours of less-than-distinguished venues. And perennial fringe groups with cult followings may have more success sending postcards to their fans.

Perhaps there's some comfort in the fact that Julio Iglesias fans really have no cause for concern—provided he doesn't try playing small clubs without a steel drum band behind him.

Bill Forman is associate editor of Isthmus and a regular contributor to Music and Sound Output.

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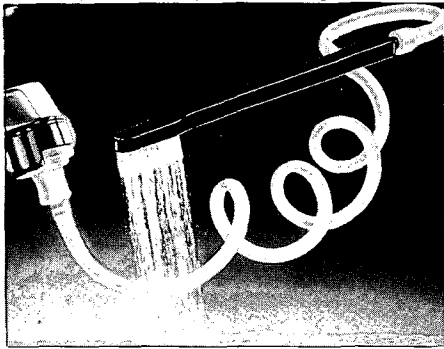
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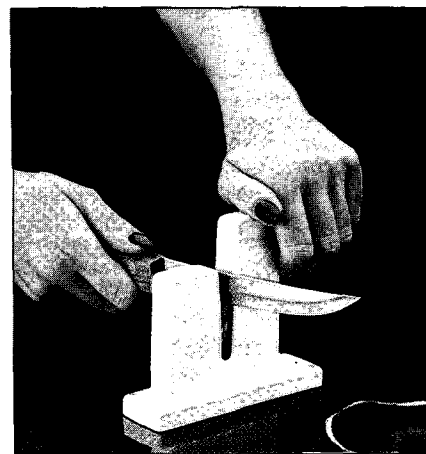
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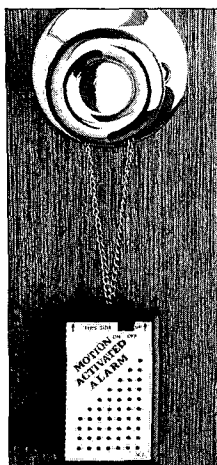


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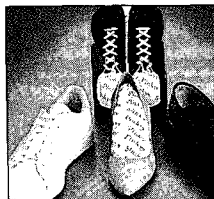
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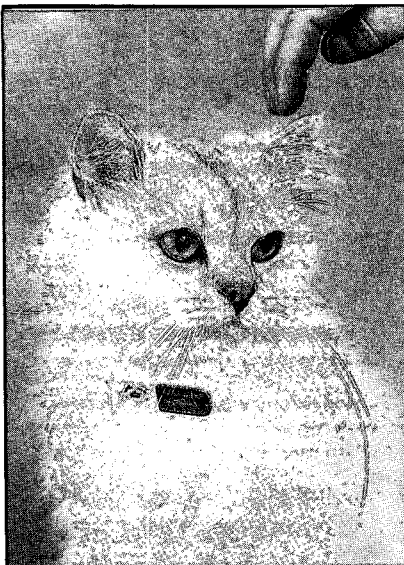
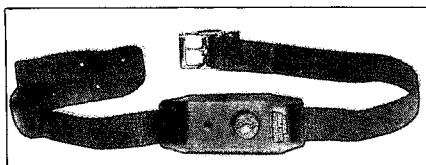
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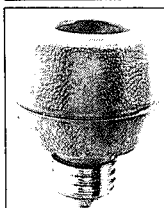


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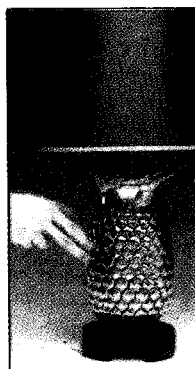
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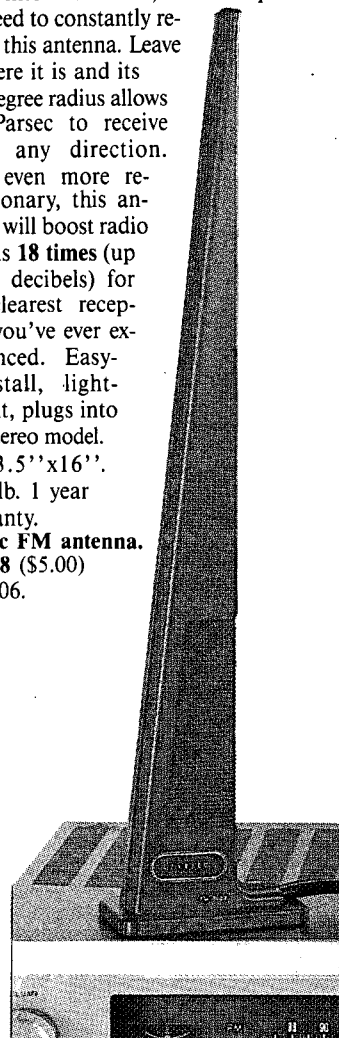


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By Roy A. Childs, Jr.

Good and Evil in the Thinking Press

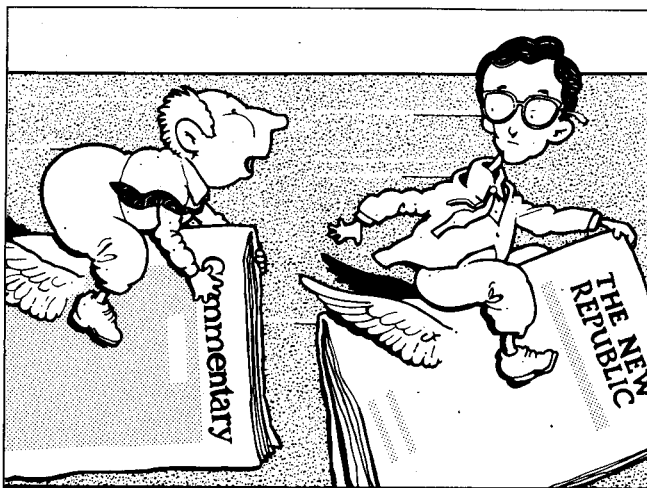
While the public dialogue today remains dreary, controversy, satire, vision, and even outrage still rear their heads in the opinion press. In one magazine after another, editors and writers struggle to make themselves heard. Right and left continue to attempt to draw blood or plead for a cause, often providing what we see all too rarely today: interesting, provocative opinions. In this review of current periodicals, I'll try to provide a guide to some of the best and worst to be found.

Let's begin by paying tribute to the most consistently interesting political magazine in the country: *The New Republic*. Edited by Michael Kinsley, it is fresh, unpredictable, and brash. Kinsley manages to encourage both wit and fairly subtle reasoning from a fine stable of writers who represent a surprisingly broad range of opinion, with a few lamentable hobby-horse exceptions. And even when it is wrong on an issue, never mind: this is the kind of magazine with which you can enjoy disagreeing.

Pick up a few issues and see if you don't agree. Start with a regular feature, "The Zeitgeist Checklist," and then zip through the rest of it. I turn at random to a few recent issues.

In that of last December 28, semi-conservative reporter Fred Barnes writes an open appeal for conservatives to unite behind Jack Kemp, who he sees as Reagan's only logical heir. Barnes predicts that, as things look, Kemp won't make it beyond the early primaries. "The most likely scenario is that Bush or Dole will win the nomination and presidency, and soon break conservatives' hearts. Conservatives have only themselves to blame."

A few pages later, economics editor Robert Kuttner, a terrible economist—apparently the younger generation's answer to Robert Lekachman and other leftist hacks—makes the case against (government) austerity and in favor of (sigh!) higher taxes. For a little fun, read "The Fifth Columnist," a nasty review by Brit



expatriate Henry Fairlie of left-wing Irish expatriate journalist Alexander Cockburn's collection *Corruptions of Empire*. (By the way, I'm a big fan of Cockburn's writing.)

TNR's main pundits in their always-provocative campaign coverage so far are Barnes and Hendrick Hertzberg, a maverick liberal who is something of a loose cannon. In the January 18 issue of TNR Barnes reports on the top agenda item for all the other Republican candidates: "Get Bush to Crack," while Hertzberg's "Monster from the ID" manages to be both scathing and sympathetic toward Gary Hart—a good balance, I'd say.

He finds a notable comparison between Hart and Nixon: "Both men are proven liars, but from the standpoint of statecraft Hart's lies have been uniformly trivial (why he changed his name, where he spent the night), while Nixon's were about rather more important things, such as what countries he was bombing and whether or not he was committing high crimes and misdemeanors."

For a change of pace, read the bizarre article in the same issue by Andrew Sullivan, "Flogging Underwear," which looks at "the new raunchiness of American advertising," features a Calvin Klein ad sprouting naked men and women, and finds that "the best adjective to describe the ethic of the whole power-sex genre of advertisement is: fascist." Fascist? Well, our naked wonders appear to be "Aryans...draped over a Nuremberg-

style obelisk." Kvetch, kvetch.

Turn one final time to TNR, the February 1 issue, and read Jeffrey Alexander's "Back to Lippmann." Alexander recently visited Poland and relates an interesting development: the progress of "workers' universities" in the basements of churches, where lawyers, professors, scientists, trade union leaders, and others have been "reading books as fast as they could be translated into Polish, so that they could prepare themselves for the distant possibility of a socialist democracy." But a young

sociologist surprised Alexander when he told him "which authors were uppermost on the list: Robert Nozick, Friedrich von Hayek, and other authors of the libertarian and free-market right."

Alexander quarreled with his sociologist friend: what's this stuff got to do with socialist democracy? "As many of them see it," he relates, "the practical question about the distribution of modern power is less about fair shares than about whether there is a space for argument at all. Private property is the only means of having a sure footing, a means of shutting out the state, of gaining a territory of one's own. Only private economic power can confront bureaucratized political control." Dare we hope that TNR will learn more about the virtues of private property from these Polish intellectuals?

Yes, there are other magazines in the world. The December issue of *The American Spectator* celebrated its 20th anniversary and, as if to symbolize its often schizoid history, we are treated to 100 pages that neatly balance Good and Evil contributions. George Gilder lets fly with a wildly optimistic, hopeful, and humane essay, "The Message of the Microcosm," a stirring celebration of technology, liberty, and progress that can only be called masterful and endlessly quotable.

A sample: "All value comes from free minds; nothing else matters. Slaves are virtually worthless. By creating slaves,

CHARLES PEALE