

Intellectual Freedom Committee of the American Library Association

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TWO LIBRARIANS, COURAGE, AND COMMON SENSE

In Alabama: Emily Reed, Alabama's director of public library service, was in trouble again. First it was that all-but-ludicrous hassle over The Rabbit's Wedding (June Newsletter). This time it was much more serious. She had recommended to the attention of the public libraries in the state the Rev. Martin Luther King's account of the Montgomery bus strike, Stride Towards Freedom, along with the rest of the ALA list of "Notable Books of 1958." When she reprinted the complete list, with the original ALA annotations, in her Library Notes for distribution to Alabama libraries, she saw no reason to cut it; rather she felt, in good faith, she should keep list and contents intact, even the annotation on the King book which read "a compassionate approach to the integration problem." That set off the Legislative uproar. Senator Eddins (one of the protagonists in the "Rabbit" drama) and his cohorts raised a howl; the Senate's Segregationist Screening Committee went into action; a Senate subcommittee was appointed to re-write the qualifications for the position held by Miss Reed. In a masterpiece of doubletalk, one member of the subcommittee said: (1) That while the new qualifications would not apply to Miss Reed, he had "no reason to believe she would be retained, if good cause was shown for her discharge"; (2) That there would be no book-burning program, but the Legislature "will not or should not perpetuate an agency... for the purpose of recommending to or imposing on its citizens a philosophy that we regard as alien to our American way of life (such as Communism) or to our Southern way of life (such as integration)." (Montgomery Advertiser, Aug. 16, 25; Birmingham News, Aug. 24)

This time, as before, the press was on Miss Reed's side. Herschel Crebb's account in the Montgomery Advertiser (Aug. 16) was sympathetic. "Keep Alabama's Head Up High," the Birmingham News (Aug. 25) headlined its editorial (with Miss Reed's picture). In the News' words: "This paper regrets the whole mess... Miss Reed is eminently qualified in holding that a library should provide books of many differing viewpoints. To argue against this is to argue for suppression - book-burning in effect." Milwaukee columnist Lippert (Sentinel, Aug. 31) noted

approvingly, "Miss Reed is a fighter - and will go down fighting for libraries in Alabama, no matter what eventually happens."

According to the Greensboro (Ala.) Watchman, the harrassment of Miss Reed has stopped - for the present: "We are happy to see that the campaign to fire Miss Emily Reed... has been stopped in its tracks, and that Alabama has been spared a spectacle which smells of book-burning." (Tuscaloosa News, Sept. 1)

In Louisiana: The Shreveport situation was basically the same as the Alabama situation - a library accused of having "insidious racial propaganda" on its shelves. But there were several differences - it was a local situation, and as such fraught with much more bitterness and emotion; the librarian wavered initially; the accuser, surprisingly enough, was one of the two local newspapers.

Black and White, a picture storybook for children about a "black man" marrying a "white lady," had been on the Shreve Public Library shelves for some 15 years. The First Book of Fishing showed pictures of black and white children fishing together. And then there was The Rabbits' Wedding. These books, charged the Shreveport Journal, promoted racial integration and as such must be removed.

Panicking at first, Head Librarian Inez Boone removed the books. Her second thought was a sobering one: "The question is, whether we are to be dictated to by every Tom, Dick, and Harry who decides he wants a book removed. If we are there'll be no end to it. We'd just as well shut the doors right now." She put the books back on the shelves, called her board into special session to work out a censorship statement. (Shreveport Times, July 30)

Six of the 9-member board, including Shreveport's mayor, were present at the meeting; the six were unanimous in backing their librarian. Their statement of policy (Shreveport Times, July 31):

The librarian and library staff are capable of selecting books to meet the needs of patrons of the public library and the board will support them in performance of their duty... In book selection the board approves the policy, now in effect, of including in the collection books covering the field of human knowledge... Neither the library board, the librarian, nor the staff has ever promoted integration of the races, or used the library to distribute propaganda on this or any other subject.

The Shreveport Journal (Aug. 1) was by no means pleased at the outcome: "Under the 'carte blanche' authority voted to her by the Board of Control, Miss Inez Boone, chief librarian, has placed the book Black and White, complete with illustrations of 'mixed color' marital happiness, within reach of any child who cares to wander into the building to pick it up." Nor were some of the Journal readers: "They should close the library if they have no more sense..." (Aug. 7); "Just who are the self-appointed few who shall determine what the many shall read? I for one am not satisfied... I don't rest readily with a heel on my neck" (Aug. 13). But the Times was moved to observe (Aug. 1): "The Library Board acted commendably in upholding the librarian and the staff." And of Miss Boone's decision to stand firm, the Milwaukee Journal (Aug. 4) had this final word: "Miss Boone is right. Censors

have to be stood off right at the start. Give them one victory and they'll take over the library."

LANDMARK

Every now and then, a court decision rises above the jargon of legalism and becomes itself a landmark of literature. Such a one was the famed Ulysses decision of Federal Judge Woolsey in 1933. Now, 26 years later, from Federal Judge Frederick vanPelt Bryan has come another, sure to prove as classic and as oft-quoted as its predecessor. Reduced to its simplest terms, the Bryan finding said merely this: the Post Office was wrong; Lady Chatterley's Lover is mailable. But it said more - much more - and said it well,

Of the Postmaster General's powers vs. the courts: "There were no disputed facts before the Postmaster General. The only issue before him was whether Lady Chatterley's Lover was obscene... The Postmaster General has no special competence or technical knowledge on this subject which qualifies him to render an informed judgment... The determination of such questions is peculiarly for the courts, particularly in the light of the constitutional questions implicit in each case.

Of the standards of obscenity: "The material must be judged in the terms of its effect on those it is likely to reach who are conceived of as the average man of normal sensual impulses... [To be obscene] the material must exceed the limits of tolerance imposed by current standards of the community with respect to freedom of expression in matters concerning sex and sex relations. Moreover, a book is not to be judged by excerpts or individual passages but must be judged as a whole... Judged by these standards, Lady Chatterley's Lover is not obscene. The decision of the Postmaster General that it is obscene and therefore nonmailable is contrary to law and clearly erroneous. This is emphasized when the book is considered against its background and in the light of its stature as a significant work of a distinguished English novelist."

Of the Postmaster General's views and findings: "Plainly Lady Chatterley's Lover is offensive to the Postmaster General, and I respect his personal views... But the personal views of neither of us are controlling here. The standards for determining what constitutes obscenity under this statute have been laid. These standards must be objectively applied regardless of personal prejudices... The Postmaster General's ruling that the book is nonmailable because it offends contemporary community standards bears some discussion... The record before him indicates general acceptance of the book throughout the country and nothing was shown to the contrary. The critics were unanimous. Editorial comment by leading journals of opinion welcomed the publication and decried any attempts to ban it."

Of literature vs. pornography: "A work of literature published and distributed through normal channels by a reputable publisher stands on quite a different footing from hard core pornography furtively sold for the purpose of profiting by the titillation of the dirty-minded."

Of the preservation of freedom to express ideas: "It is essential to the maintenance of a free society that the severest restrictions be placed upon restraints which may tend to prevent the dissemination of ideas... All such expressions must be freely

available... To exclude this book from the mails on the grounds of obscenity would fashion a rule which could be applied to a substantial portion of the classics of our literature. Such a rule would be inimical to a free society, "

(For further details of Judge Bryan's decision, see N. Y. Times, July 22; Publishers Weekly, July 27, Aug. 3. For an account of events leading up to the decision, see June Newsletter.)

Editorial reaction: The decision drew immediate comment from the nation's press - most of it favorable. "Soundly based and soundly reasoned" (Baltimore Sun, July 23); "A judicial precedent that will keep future civil officials from playing censor... fine combination of legal precision and humanistic warmth" (N. Y. Herald Tribune, July 23); "Thoroughly sensible outcome... It is one thing for the Post Office Dept. to require a stamp for what it carries in the mail; it is quite another thing to require the stamp of its approval on the content of what it carries" (Washington Post & Times Herald, July 24).

But there were voices of disapproval too. Christian Herald editor Rev. Poling, writing in the August issue, upheld the Postmaster General's view, called the book "vile and obscene." The Reverend continued: "I nominate Lady Chatterley's Lover to the No. 1 spot in any bawdyhouse library." (N. Y. Times, July 26) David Lawrence (no relation to D. H.), while studiously avoiding mentioning book and author by name in his nationally syndicated column, assailed Judge Bryan as opening "a pandora's box of troubles for the Post Office." Concluded Lawrence: "It does look as if the sky is the limit on the sale and distribution through the mails of pornographic books and pictures." (N. Y. Herald Tribune, July 23)

And among librarians: Shortly before Judge Bryan made his ruling, one paper (Asbury Park, N. J., Press, July 19) had sought the opinion of six area librarians on the Summerfield ban. Like columnists and editors, their opinions varied widely. Only one felt the postal action was justified, saying, "It's simply a matter of good taste." Three felt there was no reason for the ban. Two others were noncommittal.

LADY CHATTERLEY'S LOVER - WIDENING CIRCLES

Local: As might be expected, Lady Chatterley and her lover ran into considerable local trouble on the heels of the national fuss precipitated by the Postmaster General's finding that the book was nonmailable, despite Federal Judge Bryan's ruling to the contrary. What was reported as a "tabloid version selling for 25 cents" was turned over to a prosecuting attorney in Bridgeport, Conn. "along with other allegedly obscene publications" for decision. The action came after city court and police officials in nearby Norwalk had warned dealers to remove it from their stands or face arrest. (Bridgeport Telegram, Aug. 15) A Rhode Island distributor sought to recall the 15,000-20,000 copies of the paperback version from all news dealers in that state, after Providence police had requested dealers not to display copies openly or sell to youths. In Warwick, Woonsocket, and North Providence, police stopped sales and ordered all copies off the stands, and the State Commission to Encourage Morality in Youth was asking police in all communities to do likewise, (Providence Journal, Sept. 13; N. Y. Times, Sept. 12) In Arkansas, the Little

Rock Censor Board asked police, "for the protection of our children," to remove all copies of the novel - both hardcover and paperback - from the local book stands (Little Rock Arkansas Democrat, Sept. 1).

In at least one locale, however, things came out differently. Prosecuting Attorney Agee, of Washtenaw County, Mich., confronted with citizen complaints against the sale of L. C. L., investigated the charges, called in experts in literature for their opinion, and decided not to ban the book (Detroit News, Aug. 27).

Postal footnote: After the Post Office Department had sent out reprints of the Poling editorial describing the much debated novel as "vile and obscene," with instructions to local postmasters to display them, the Post Office's general counsel Herbert Warburton ordered their removal, stating that to display them violated postal regulations and was not in good taste (St. Louis Post-Dispatch, Sept. 10).

In Congress: As if the Post Office and the Federal Courts weren't enough, the U.S. Congress felt the backwash of the Chatterley business, when legislation seeking greater "state's rights" on matters of morality and decency was introduced and promptly gained substantial support (see below).

Reprints flood market, court suits pile up: In the wake of the Bryan decision, paperback publishers fell over one another to make the "Lady" available to **Everyman**; in the wake of the reprints, court suits piled up. Dell (1,000,000 copies), NAL Signet ("two large printings"), Pocket Books (1,870,000) and Pyramid (250,000) were in the field - Dell by contract with Grove, the rest on their own - plus a "tabloid" 25¢ version (PW, Aug. 3). The reprint flurry set off a chain reaction of suits, Grove suing NAL, NAL suing Grove and Dell, Bookmobile Inc. suing Grove (PW, Aug. 3, Sept. 7).

Publishers Weekly (Aug. 17) saw the whole shoddy business for what it was: "The present outpouring of paperback reprint editions of the unexpurgated L. C. L. does no service either to the book itself or to the book trade as a whole... The censorship implications of the 'Chatterley' reprint bandwagon also deserve serious consideration. In the courts - and subject to an appeal by the government now pending - Grove established that 'Lady Chatterley' is publishable in the U. S.; in so ruling, the court placed considerable emphasis on the fact that Grove's manner of publishing [including advertising, promoting, format, pricing] the book was not calculated to appeal to 'prurient' interest... 'Prurience' may not be the reprinters' chief appeal. But mass circulation is their chief aim. And such is the 'Lady's' reputation that the outpouring of reprint editions may well result in a renewed flare-up of widespread censorship actions and a strengthening of the government's case against the book. The public image of the whole book trade has been cheapened by the 'Chatterley' sweepstakes."

PROPOSALS BEFORE CONGRESS TO LIMIT, EXTEND POSTAL POWERS

A pair of curiously different and all-but-contradictory proposals came before the U. S. Congress in the late days of the last session. One, proposed in the House, would extend postal powers to ban by extending the time limits within which the Postmaster General could keep material impounded. The other, a Senate-spawned

measure, injected the "states' rights" issue into matters of morality.

Under Rep. Granahan's (Pennsylvania) proposal, materials impounded as obscene by the P.O. could be held for 45 days, instead of the present 20, if, in the opinion of the Postmaster General, such action were "in the public interest," in the bill's words. ACLU assailed the proposal: "The power to harrass by impounding is destructive, but by stretching the 20-day limit to 45 days, the power to impound becomes the power to destroy - all without the requirement of any hearing, without any due process whatsoever... and even without any final determination by the Postmaster General or by any court that the material being disseminated is, in fact, obscene." (Nation, Oct. 10; PW, Sept. 14; N. Y. Post, July 31) When the House passed the bill, the Washington Post and Times-Herald (Sept. 7) was moved to observe: "The effect is to create a national censor... Censorship by official fiat cannot cure obscenity; it can only destroy freedom." Quoting Congressman Lindsay's (N. Y.) words, "The burden of proof is entirely shifted to the mailer to prove that the order of the Postmaster General has been arbitrary and capricious," the editorial continued: "This shifting of the burden of proof from accuser to accused is in itself a most dangerous perversion of due process."

The immediate roots of the Senate proposal lay in the Supreme Court's decision that the New York State banning of the film Lady Chatterley's Lover, along with its whole film licensing procedure, was unconstitutional (June Newsletter). Proposal was authored by Mississippi's Senator Eastland, Chairman of the Senate Judiciary Committee, who interpreted the Court's decision as holding that "adultery, immorality and perversion can be taught as ideas and that a sovreign state does not have the power under the Constitution to protect the youth of the state from such doctrines." The Eastland proposal, supported by Senators Lausche, Talmadge, Kefauver, Thurmond, and Johnston, and keyed to the "protection of the youth" theme, would amend the Constitution to provide that "the right of each state to decide on the basis of its own public policy questions of decency and morality, and to enact legislation relative thereto, shall not be abridged," (N. Y. Times, July 3) Opposition to the Eastland proposal was evident, even in the Southern press. "We are not all children in this country, and any free born American citizen has a basic right to advocate any practice he chooses so long as his plea is made to adults who are legally and morally responsible for their own actions... As chairman of the Senate Judiciary Committee, Senator Eastland is surely not unaware that such an amendment would, in effect, destroy the First Amendment's basic guarantee of freedom to advocate ideas" (Nashville Tennessean, July 10). "There are too many censorship laws on the books - all of them asinine or ridiculous - without the Senate introducing any more for consideration... Let's let each individual make up his own mind" (Charleston, W. Va., Gazette, July 11).

As if these two weren't enough, Senator Kefauver, joined by Eastland and Talmadge, proposed another amendment to the U. S. Constitution which would define "obscenity" and exclude it from the Constitutional guarantees of freedom of speech and press (Chattanooga Times, Aug. 18). And Rep. Granahan, at summer's end, had still another proposal before the House - this one to increase penalties for convicted mailers of "obscene" books (Antiquarian Bookman, Aug. 17).

Latest information on these proposals was the David Lawrence column (Champaign,

Ill., News-Gazette, Sept. 28). Under "Obscene Mail," Lawrence regretfully noted: "The House passed a bill that would tighten the P. O. Department's control over mailing of obscene materials of all kinds. The Senate took no action."

P. O. APPEALS TO PARENTS IN ANTI-OBSCENITY DRIVE

Postmaster General Summerfield's late spring appeal to parents for help in getting bona fide obscene material out of the mail sparked a series of local, state, and national moves. The South Bend Tribune (June 19), like many another newspaper, welcomed it editorially. Postmasters appeared locally on radio and TV throughout the nation, echoing Summerfield's plea - a simple and straightforward one - to parents of children who receive obscene matter through the mail: Save the material, wrapper and all, and report it to your postmaster, who will move, as provided by law, against the offender.

But here and there, the P. O. action served only to trigger the overzealous and the freewheeling to greater efforts. An Indianapolis reader called on the "clergy, police, prosecutor, judge, and Mayor," under Summerfield's example, to move in on "our filthy newsstands" and make a "cleaner Indianapolis, morally cleaner, that is" (Indianapolis Times, June 19). In Clinton, Conn., too, the postal appeal took on considerably broader dimensions as the Board of Selectmen appointed a committee of five clergymen to assist the postmaster "in tracking down any obscene literature that may be found on local newsstands and in the mail" (Hartford Courant, June 20). Postmaster, pastors, selectmen, and businessmen were scheduled to meet on Sept. 15, following sermons by local clergymen urging parents of children receiving obscene literature through the mail to turn it over to a pastor (sic) or the postmaster (Courant, Aug. 17).

STATE SCOREBOARD

Movie legislation: When the Pennsylvania Supreme Court on July 2 ruled the state law governing the showing of movies of a "lascivious, sacrilegious, obscene, indecent or immoral nature" unconstitutional on the ground that its terms were too vague, the Legislature found itself under pressure from every quarter for immediate enactment of a new statute. By July 27, three bills to curb the showing of objectionable films were before it (Wilkes-Barre Times Leader-News). In mid-September the Governor signed into law a bill calling for a 3-man censorship board and reflecting the U. S. Supreme Court's emphasis on judging obscenity in terms of the average person and in the light of contemporary standards. With at least four cases reported being prepared for testing its legality, State Capitol attorneys and even some legislators doubted that the new law had overcome objections to the previous law and would stand up under test. (Variety, Sept. 23)

Anti-obscenity legislation: In Massachusetts, a bill which would increase both jail sentence and fine for a first violation of the obscene literature law and make a jail sentence mandatory for a second offense was sent to Governor Furcolo for signature in late July (Springfield News, July 23). Another bill, referred to the Mass. Judicial Council for study, would make a previous conviction prima facie evidence of defendant's intent to violate law on a second arrest. Both bills had been vigorously opposed by lawyers and civil liberties spokesmen. (Springfield Union, June 24; Boston Herald, June 25)

In Ohio, House and Senate passed unanimously a bill providing that holders of second-class mailing permits no longer are immune from prosecution for distributing obscene literature in the state (Cincinnati Post & Times Star, July 30). Bill, fostered by Citizens for Decent Literature, Inc., was promptly vetoed by Governor DiSalle, whereupon, just as promptly, legislators were called on by bill's backers to override the veto (Cleveland Press, Aug. 13).

In Florida, an amendment to the obscenity statute went into effect September 1. The new law makes possession of obscene material a felony and increases the penalties for sale, publication or distribution. In order for publications with second-class mailing privileges or other publications which may be legally sent through the mails to fall under the law's criminal provisions, they must first be declared obscene by a court of competent jurisdiction. (Jacksonville Journal, Sept. 1)

Outside the legislatures: Statewide activity was not limited to legislative chambers. In Iowa, the September announcement by State Attorney General Erbe of a "crackdown" on what he called pornographic magazines and literature sold off newsstands was reported widely (and generally with mixed reactions) in the state press. The Attorney General's letter, sent simultaneously to all county attorneys, contained a list of 42 objectionable magazines, and instructed the attorneys to "take prompt and vigorous action in requiring that your magazine dealers remove these objectionable publications from their racks at once and bring criminal proceedings for any subsequent violations." (Sioux City Journal-Tribune, Sept. 1) The Davenport Times headlined an editorial (Sept. 2) "Drive On Smut - Worthwhile Even If Late." The Council Bluffs Nonpareil (Sept. 4) hoped the Attorney General "will receive cooperation... and be successful." But the Des Moines Register (Sept. 11) was inclined to view the campaign as "touched with the brush of politics," while the Ames Tribune (Sept. 4) had other doubts: "We agree that obscene... literature should be prevented from sale. But if the problem is a problem because of adolescents, then the job is the responsibility of parents."

From one end of the state to the other, county attorneys were reported as welcoming the list as a guide and eager to join in the drive. Newsdealers, too, all but elbowed each other aside to voice their "cooperation" (Cedar Rapids Gazette, Clinton Herald, Worthington, Minn., Globe, Sept. 2; Sioux City Journal, Sept. 3).

But there were one or two tiny clouds on the horizon. One county attorney called in and told Erbe that he hadn't included all the magazines he should have on the list. Erbe's reply: "We told him to send them down here and watch for others" (Sioux City Journal, Sept. 3). And then there were new fields ahead. Erbe was promising a probable "crackdown on certain paper bound books" after further study, which moved a Council Bluffs editor to hint at the presence of "scores" of indecent books on the shelves of many public libraries in Iowa (Nonpareil, Sept. 4).

In Indiana, Governor Handley, through the Governor's Youth Council, is supporting a statewide drive at the local level against "trashy literature." New strategy will involve mayors and other local officials, newspaper editors, appointment of so-called "literature review boards," and volunteer teams to inspect magazine racks. (N. Y. Times, Aug. 30)

AMERICAN ART AND BOOKS IN MOSCOW

At first glance it looked - and sounded - as though no one were pleased. A Congressman attacked the U.S. art selected for display in Moscow and sought to censor it. An art collector attacked the Congressman. And then there was the matter of the American book exhibit. Soviet officials set about weeding it of allegedly objectionable materials; while some U. S. papers found what was left a "substantial sampling," others felt it was not so "comprehensively representative" as its billing claimed. But on the brighter side was its enthusiastic reception by the visitors to the Fair - and the story of the prompt replacement of titles which those enthusiastic visitors had "borrowed" from the display.

When Pennsylvania's Rep. Walker, Chairman of the House Un-American Activities Committee, took a look at the American art chosen for exhibit in Moscow, he saw Red. Two of the artists, said Walker, were Fifth Amendment refugees - Ben Shahn and Philip Evergood. Then he added, for good measure, that about a third (unspecified) of the 67 artists had "a significant record of service to the Communist movement." (Champaign, Ill., News-Gazette, July 6) Art collector Rosenwald objected to Rep. Walker's line of reasoning: "The jurors... were to exercise their careful judgment in assembling the best cross section of art created in America since 1920... They did not seek either to please the Americans or appease the Russians... They should be congratulated. Instead they are being condemned on grounds totally outside the rules for selection." (N. Y. Times, July 19)

As for the book exhibit there were several stages in the story as reported by Max Frankel in the N. Y. Times (July 25): Soviet insistence that the books on display were to be limited to American culture was honored at Helsinki, where Americans removed some 250 titles. Upon arrival in Moscow some 80 Russian-language books, patently hostile to the USSR, were removed at Russian request. Not content with this, Russian officials, after inspecting the exhibit, prepared another list. Among removals at this stage: Acheson's Power and Diplomacy, Bowles' Ideas, People and Peace, Stevenson's Friends and Enemies. This, however, was not enough. General exhibition manager McClellan and book exhibit manager McLaughlin were again confronted with a list of 30 more "objectionable" books, among them Chase's Tyranny of Words, Berle's Tides of Crisis, Barbara Ward's Faith and Freedom - and the 1959 World Almanac! McClellan and McLaughlin promised to review the latest list but indicated the final decision would be theirs.

What books the Soviets left on display, however, proved popular with the visitors - so popular, in fact, that the Bookmobile portion of the Combined Book Exhibit had to close down temporarily. But, thanks to the combined efforts of a lawyer, a librarian, book publishers, a book wholesaler, an airline, the State Department and USIA, and the Soviet government, within one day, almost 3,000 titles were assembled and airlifted to Moscow, and, within a week, the Bookmobile exhibit was back in operation. (N. Y. Times, Aug. 22)