



## newsletter ON INTELLECTUAL FREEDOM

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### Statement of the American Library Association on H. R. 2525 before the Select Subcommittee on Education of the House Committee on Education and Labor, May 9, 1967

The American Library Association is grateful for this opportunity to express its views in connection with the hearings held on H.R. 2525 and related bills, looking to the creation of a Commission on Obscenity and Pornography. We appreciate the purpose of the bill, H.R. 2525, in endeavoring to protect the public, and particularly minors, from obscene and pornographic publications. However, we cannot support the measure for the reasons which we should like to submit.

The ALA, a nonprofit, professional association of more than 35,000 members interested in the development of library services in the United States, last expressed its opinion regarding this matter on September 24, 1965, in connection with hearings held on H.R. 7465 and related bills. We could not support that legislative proposal in part because we, like others, felt no Commission of the kind contemplated ought to be established before careful studies were undertaken and completed, under unimpeachable nongovernmental auspices, to "develop scientific data measuring the effects of obscene matter" and "clarify the premises underlying obscenity laws" including the premises of the bill (H.R. 7465) then under consideration. The Association also urged that scientific studies be made of the effects which the enforcement of censorship laws were having upon our institutions of free expression, including the mass media of communication.

The ALA position with respect to H.R. 7465 was taken in consideration of the Association's longstanding policy in favor of freedom of expression, and against all forms of censorship, private and public. The Association believes that the freedom to read, guaranteed by the Bill of Rights of the United States, is essential to our democracy and must be preserved. Our position was taken also in view of action by the U.S. Supreme Court in ruling against other semigovernmental Commissions created at the State or local level with the intent of combatting obscene and offensive material.

H.R. 2525 differs from previous legislative proposals opposed by the American Library Association in several commendable respects, perhaps the most important of which involves a provision for legal and other studies into "obscenity" and the obscenity laws. The Association is glad to see that H.R. 2525 does not assume that which has never responsibly been shown, that "obscene" material contributes to crime or delinquency. It is precisely in this area that scientific research would be welcomed. Unfortunately, H.R. 2525 does not seem to offer any reliable method for conducting such studies, particularly the non-legal

studies of "the effect of obscenity and pornography upon the public, and particularly minors." The bill fails to specify that such studies would be scientifically conducted by experienced and reputable research institutions, and instead gives the difficult task of carrying out the studies to the sixteen-member Commission itself, by means of "hearings," the collection of information and "suggestions" from interested agencies and groups, and "consultations" with governmental organizations and private groups. It can safely be predicted, Mr. Chairman, that without more formal, and factual data, based on a full-fledged scientific study, this Commission would be engulfed by an avalanche of public emotion and uninformed opinion created by well-known national and local pressure groups.

In short, H.R. 2525 makes no real provision for the carrying-out of scientific studies; in assigning a study task to the Commission, the bill risks the grave danger of letting loose on the American media of expression and communication a semi-governmental investigation concerning matter which any three Commission members might consider "morally and culturally corrosive and otherwise harmful to the public, and particularly minors." Such an investigation, obviously, would be the antithesis of the scientific study which the ALA supported. It would be the antithesis, also, of the "reliable scientific study" involving "painstaking research conducted over a relatively long period of time" which the Honorable Fred M. Vinson, Jr., Assistant Attorney General of the United States, supported in his testimony of April 24, 1967. And it would be the antithesis of the "carefully designed, scientifically sound study on whose results we could all agree" supported by the Executive Director of the National Council of Juvenile Court Judges, Mr. John F. X. Irving, in his testimony of April 24, 1967.

In our judgment, it would have been a service for the Subcommittee's attention to have been directed to the fact that the recent comprehensive Report of the President's *Commission on Law Enforcement and the Administration of Criminal Justice*, called "The Challenge of Crime To A Free Society," failed to associate obscenity or pornography with crime or delinquency, in any way. Moreover, none of the causal relationships alluded to in the statement presented to the Subcommittee by Dr. Lawrence Kubie found any support in the studies and report of the President's Crime Commission. One is forced to wonder what possible good could be accomplished by any studies that were conducted by the Commission proposed under H.R. 2525.

It is noted that, although nine of the sixteen members proposed to constitute the Commission would be required for a quorum, three members alone would be empowered to take testimony and interrogate witnesses which could cause dangers to individuals.

Concerning the provision for a study of the laws pertaining to the control of obscenity and pornography, again it seems evident that only a responsible, independent research institution, or center for legal studies could conduct such a study free of suspicion of bias generated by pressures from private groups and governmental organizations.

As to the bill's provision for a survey of the methods used in the distribution of obscene materials, in the absence of a firm definition of the "obscene," the Commission would have no guidelines or boundaries, or nothing other than its own sensibilities, for its investigation and would be in constant danger of inquiring into everything that three persons might think obscene or morally or culturally corrosive.

In this connection, attention should be paid to Mr. Vinson's testimony to the effect that the Department of Justice has successfully been investigating and prosecuting publishers and distributors of commercial obscenity, and that "a comparatively small number of distributors are responsible for the bulk of the nationwide traffic in commercial obscenity." Stating that the 1966 U.S. Supreme Court decision in *Ginzburg v. United States*, provided federal prosecutors with "a needed and useful tool" for focusing on mass producers of obscenity, this testimony by the Assistant Attorney General appears to disclose no need for any national Commission on Obscenity and Pornography to struggle to arrive at new "definitions of obscenity and pornography," as provided in the bill.

Regardless of the merits of that decision, it seems to be providing a workable definition for the prosecuting arms of the federal government, with regard to commercial obscenity. No reason appears why State and local prosecutors cannot adequately function under the same definition.

Mr. Chairman, we have hesitated to record these doubts concerning the need for this new Commission, and these fears concerning the thrust and impact, in terms of free expression, of any "studies" undertaken by such a Commission—because we are sensitive to the long hours and conscientious attention which you and the Members of your Subcommittee have paid to the troublesome problems to be dealt with by H.R. 2525. But where a choice must be made between tolerating the risks which invariably accompany free and open expression, and inviting the dangers to our democratic institutions presented by any form of censorship, the decision is clear. In fact, it was made for us with the adoption of the First Amendment by the Founding Fathers.

In accordance with this judgment, we wish to urge you respectfully, on behalf of our Association, not to favor H.R. 2525, unless the scope of the measure is limited and is directed to the encouragement of scientific research by responsible institutions into the problem area with which the Select Subcommittee is concerned.

## Salt Lake YPC Begins to See(k) the Light

The "sink-pornography" campaign now being conducted by the Youth Protection Committee will receive support with a different emphasis—a campaign to encourage and stimulate the desire of youth to read good books.

"We must give the youth something positive. If something good is presented to them, and if they learn to value that which is good—they won't want inferior literature," the Rev. Lawrence M. Spellen, Our Lady of Lourdes Church, Magna, told members of the committee at a meeting Thursday.

Four members of the committee were elected to form a sub-committee to study ways in which the desire for reading good books could be motivated.

Elected were Ward McCarty, executive secretary, Utah Pharmaceutical Association; Dr. Victor Kassel, geriatrician; Robert Thomas, Salt Lake City Public Library; Mrs. Jack T. Woodhead, Parent-Teachers Association.

"It is no good to tell dealers to stop selling pornography. If the public prefers to read other forms of literature and stops buying pornography—then the dealers would be forced to take pornography off their stands," Rev. Spellen said.

The recurring question, How harmful is pornographic literature to youth? appeared again at the Thursday meeting.

Information from a survey published by Dr. Sanford Clarke of the New Jersey Committee for the Right to Read and presented to the fifth annual meeting of Audience Unlimited was presented to the Youth Committee by Mr. Thomas.

The information presented the point of view that passage of legislation excluding pornographic material from libraries and stores would not reduce anti-social behavior.

The executive committee felt that the source of this information did not appear to be authoritative. Mr. Thomas was assigned to investigate the validity of the material and the background of the organization publishing it. —*Deseret News-Telegram*, 21 April.

### He's Irish

"I'm Irish," said Mr. Spillane, "but my books are banned in Ireland." Mickey ("please don't call me Mr. Spillane") said he thought the Irish banned the books because they were afraid the books would corrupt the readers. "Anyone who bans books is ridiculous," he said. "Go into any penal institution and you'll find that the people in it never even read books." He noted that ten years ago his books had been banned on college campuses, but now they are on required reading lists. —*PW*, 15 May.

## Library's Bircher Bans His First Book

By MICHAEL J. BERLIN

A John Birch Society member, elected to the Farmingdale, L.I., Library Board last Wednesday, has banned his first book.

It's a copy of the *Paris Review*, and Carl E. Gorton says he has "confiscated" it because of an "obviously obscene" story dealing with "sodomy."

But the director of the South Farmingdale Library, Orrin B. Dow, said today that Gorton had "borrowed" the magazine—and would be getting an overdue notice this week.

The *Paris Review* story, "Sky Blue on the Dump" by Dallas E. Wiebe, was discovered on an open shelf in the library by Gorton before his election to a five-year term. He takes office July 1.

He said he showed the passage to a librarian, and took the magazine home with him.

"I do not intend to return it," he said, "and depending on the board's review and action I may take legal action of my own."

Dow, the library director, conceded that Gorton hadn't signed the magazine out, but "since we knew the man, knew the magazine, and knew about the day he took it, we treated it as an ordinary loan.

After the overdue notice, he said, a later step might be court action under a law that makes failure to return material to the library a misdemeanor punishable by up to a year in jail and a \$500 fine.

Gorton is the first Bircher on the local library board. After his election, he said:

"I believe my victory to have been an act of God that liberals could not prevent."

He hasn't announced any plan to comb through the library for more sodomy, but he said he would try to persuade the library's board to stock as many conservative magazines as those he considered "left-wing—such as the *Nation*, *Commonweal*, *Christian Century* and the *New Republic*." —NY Post, 8 May.

## Censor Foes Revive Library Group

FARMINGDALE—An organization that has been inactive since it successfully fought a censorship fight in the Farmingdale Public Library in 1963 was reactivated last night to take up the same cause. The organization's aim is to join the forces opposed to a board member-elect, a member of the John Birch Society, who has confiscated a magazine he considers obscene.

Lucille Rosen, vice president of "The Friends of the Library," said last night that a meeting had been set for May 18 to rally support for the besieged library board in its dispute with Carl E. Gorton, a newly-elected trustee. Gorton has refused to return the library's copy of the fall/winter edition of the *Paris Review*, which contained a story to which Gorton objected.

Hillard Boss, a school teacher and local resident, said he had made 35 to 40 telephone calls yesterday to stir up interest in reactivating the citizen's group, whose executive board has not met since 1964, according to library director Orrin Dow. The group was last active in the 1963 and 1964 budgetary crises and had

## Parkinson on Pornography

The Law: When government sets up an anti-pornographic department, it perpetuates pornography as well as the department.

To abolish pornography completely, Dr. Parkinson told one of the largest luncheon crowds in Commonwealth Club history, it would be necessary to kill the department—"which may have now grown to a division."

Catching purveyors of dirty pictures was compared by the speaker to catching rats.

"No rat catcher," he said, "—of course they are now called rodent control officers—ever wishes to eliminate rats. He only wants to maintain a picturesque struggle against them.

"He may lay waste to a vast rat colony, but he will always—as a matter of self preservation—make sure he leaves alive two, a male and a female." —S.F. Chronicle, 27 May.

been aroused to action in 1963 by a charge by Edward H. Werner, another John Birch Society member, that *The Last Temptation of Christ*, a novel by Nikos Kazantzakis, was obscene and should have been banned. The Library board refused, and Werner was trounced in a race for a board seat.

Gorton, who does not take office until July 1, said he did not know whether he would attend the May 18 meeting to present his views. Dow said last night he would probably charge Gorton under the State Education Law with removing the magazine, if Gorton continued his refusal to return it. Gorton has said he would make a test case of the issue. —Garden City Newsday, 11 May.

## Censor Censured

On Tuesday, 9 May, the board of trustees unanimously passed a resolution censuring its new member-elect. The resolution was read by library director Orrin Dow, who is quoted as saying, "Any man who sets himself up as an arbitrator of public taste is in clear violation and commits a disservice to the library."

On 16 May, the library received a replacement copy of the Fall, 1966 issue of the *Paris Review*, courtesy of editor George Plimpton, and by nightfall 15 reserves had been taken, and the magazine was in circulation.

Dow and the library board president, Mrs. Khan Musa, said that persons taking home the copy will be screened to make sure they are at least 18 years old. They said that was standard procedure for the borrowing of adult magazines, and they denied there had been any concession to Gorton. Asked if the screening met his objections, Gorton said, "No, not really."

Gorton had objected to the magazine being on open shelves, where it could be perused by persons under 17. He repeated, "If I find it on the shelf, which is unlikely, I will remove it. If it is restricted to a closed shelf, that satisfies my requirement." Dow said that the library does not have a closed shelf. Asked if he planned to visit the library from time to time to look for the magazine, Gorton, president of a research company, said: "When my very busy work schedule permits."

## Nassau County Library Association

I

The following statement was issued by the Directors of the Bethpage, Massapequa, Levittown, Plainedge, Plainview-Old Bethpage, Seaford, Wantagh and Hicksville Public Libraries:

"Carl E. Gorton, in removing a magazine from the Farmingdale Public Library on the grounds that it was unsuitable and, in his opinion, pornographic, has acted in the worst tradition of the self-appointed censor. He seeks to impose his opinion on others by extra-legal means, and to determine what is acceptable for others to read. He is not yet a member of a legally constituted body, and, indeed, even if he were acting as a fully qualified library trustee, he would not have the authority to remove materials arbitrarily. The power to determine what may be pornographic lies with the courts, and yesterday's decision of the U.S. Supreme Court in reversing three convictions for obscenity shows how difficult it is to make such a determination. We deplore Mr. Gorton's misguided action in this matter and will support the Board of Trustees of the Farmingdale Public Library and its Director in their stand against Mr. Gorton's ill-advised and ill-considered attempt at censorship."

The statement was signed by David Pinkwas, Director, Bethpage Public Library; Kenneth S. Barnes, Director, Hicksville Public Library; Bradley Breitenstein, Director, Massapequa Public Library; Robert N. Sheridan, Director, Levittown Public Library; Alfred Freund, Director, Plainedge Public Library; Joseph Eisner, Director, Plainview-Old Bethpage Public Library; Virginia L. Moran, Director, Seaford Public Library and Albert N. Monheit, Director, Wantagh Public Library. All these libraries are in the immediate area of the Farmingdale community.

II

The Committee on Intellectual Freedom of the Nassau County Library Association expresses its grave concern over the "confiscation" on the grounds of obscenity of a copy of the *Paris Review* by a trustee-elect of the Farmingdale Public Library.

The *Paris Review* has achieved and maintained an excellent reputation in the field of contemporary literature. Because of its eminence as a literary periodical, among its subscribers are numerous outstanding public, college, and university libraries through the United States.

We strongly condemn and are deeply shocked by the illegal and high-handed method by which the *Paris Review* was seized. Library materials are issued to a borrower through use of a library card, not "confiscated" in a vigilante-type action.

The Committee on Intellectual Freedom of the Nassau County Library Association deplores and rejects this act or any other of censorship which ultimately will determine and restrict what or what not the public may be allowed to read, and which attempts to impose upon the entire community the personal stand-

ards, beliefs, tastes, or concepts of morality held by an individual or group.

If the threat of legal action by the trustee-elect is carried through, we stand ready, with other library associations, to strongly support in court the right of the Farmingdale Public Library to select materials in accordance with the principles set forth in the "Library Bill of Rights" and the "Freedom to Read Statement" as issued and approved by the American Library Association.

III

At its meeting on May 16, 1967, the Executive Board of the Nassau County Library Association endorsed the statement issued by the Directors of the libraries in the immediate area of the Farmingdale community and the statement of the Committee on Intellectual Freedom of Nassau County Library Association (copies attached).

The Executive Board also reaffirmed its statement adopted at the General Membership Meeting of February 24, 1966, which reads as follows:

"The Nassau County Library Association, reaffirmed its support of, and belief in the 'Library Bill of Rights' and the freedom to read, deplores the passage and signing into law of Chapters 327 and 372 of the 1965 Session Laws, New York.

The Nassau County Library Association stands ready to mobilize the resources of the Association and of other organizations with similar objectives to aid and support any individual or institution coming under indictment by reason of these acts when performing services consistent with the 'Library Bill of Rights' and the 'Freedom to Read Statement' as adopted by the Council of the American Library Association."

## Nassau Library System

The Board of Trustees of the Nassau Library System, prompted by inquiries relative to its position on attempts by individuals to censor materials in County public libraries, has adopted the following resolution:

"The Board supports and endorses the philosophy and principles contained in the Library Bill of Rights and Freedom to Read statements. The implications of an act of censorship are of great significance and are of great concern to the Board, so much so that the Board feels it must inform the public that such an act runs counter to democratic principles. The Board, therefore, views with concern any attempt at the repression of the circulation of books because it contravenes the principles enumerated in the American Library Association policy statements and the Constitution of the United States. The Board of the Nassau Library System will support any library in the System which is unjustifiably attacked on a censorship issue."

The System is comprised of 50 public libraries. The Trustees represent nine geographical areas and are elected to the NLS Board by the Trustees of the public libraries located in those areas. Although an NLS Trustee need not be a trustee of a local public library, all of the present incumbents also serve on the Boards of libraries in their respective communities.

## California's Uphill Road

Despite the decisive defeat of the CLEAN initiative in California last November, new anti-obscenity legislation passed the state Senate on 12 April. The two bills would permit prosecution ala the U.S. Supreme Court's Ginzburg decision — titillating advertising — and prohibit distribution of material harmful to children. In hearings before the Judiciary Committee on 6 April, "Spokesmen for librarians complained the legislation would make them censors." FLASH: Both bills were killed by the Assembly Criminal Procedure Committee. —Sacramento *Bee*, 13 April. —Gleaned from the press by LCM.

### Report from the Intellectual Freedom Committee

The outcome of the Senate hearings on April 16 was no worse than we had expected. S.B. 96 was withdrawn and S.B. 78 and 79 passed out of committee with a "do pass." Only three senators voted against the bills, Song, Bielsonson, and Moscone. Anyone living in the districts represented by these senators should send letters of thanks for their support.

When I said the outcome was no worse than we expected I only meant in the way the votes were cast. The total effect of the hearing was devastating. It would have been well had more librarians been on hand to hear what was said, particularly those who feel we have nothing to fear from these bills.

The committee spent most of the morning with the Attorney General and others speaking in support of the bills. Then rushing on toward lunch they asked if there was anyone to speak in opposition to the bills.

They used their questions to Dr. Madden to try to discredit his statement by asserting that he only spoke for a 13 man committee and not for the Association. They rejected the statement of the ACLU representatives, and of all others who spoke in opposition, and refused to hear the CASL Representative.

At one point the chairman of the committee said, "what's all this about libraries? We can clean those out in a minute." When it was suggested that libraries be left out of the bill Senator Deukmejian said, "No, you can't trust those librarians, some of them believe there is no such thing as a dirty book."

It was obvious from the start that they had made their minds up. They asked few questions and seemed only interested in letting the opposition be heard, cutting them off as quickly as possible so they could go to lunch.

Now that these bills are out of the Senate Judiciary Committee and have been passed on the Senate floor they go to the Assembly Criminal Procedure Committee. Now is the time for you to let your Assemblyman hear from you, particularly if he is on the Criminal Procedure Committee.

I feel certain that A.B. 9 (Deddah) will be dropped in the Assembly committee just as S.B. 96 was dropped in favor of S.B. 78 and 79. Now we can concentrate our efforts on these two bills, which will be heard by the Assembly Criminal Procedure Committee on May 23rd.

Senate Bill 807 which would have allowed local communities to pass their own ordinances on obscenity, was held in committee on April 4. The State will continue to preempt this entire area of legislation. —Rose M. Towns, Chairman, *CLA Newsletter*, May.

### The Freedom to Read

The California Library Association is opposed to the following bills introduced into the 1967 session of the State Legislature. Each of them, if passed into law, would curtail the Freedom to Read, interfere with the free access to ideas and information, and place upon libraries and librarians an intolerable burden of investigation and supervision.

S.B. 78 (Lagomarsino, Deukmejian, Grunsky, Stevens, Harmer, Schrade, Walsh, Marlene, Bergener, Schmitz, Dolwig, Cologne, Richardson, Dills and Way) includes the three Supreme Court tests for obscenity (when applying contemporary standards, the predominant appeal is to the prurient interest; goes beyond the customary limits of candor; and is utterly without redeeming social importance). However, it adds that the prurient appeal is to be judged with reference to specially susceptible groups rather than the average person, if it appears to be intended for a particular group. This would require librarians to determine which books might appeal to the prurient interest of any type of deviant or other abnormal person who might in some way be "specially susceptible." The bill also states that if circumstances indicate the matter is being commercially exploited for its prurient interest, this is sufficient to conclude that it is utterly without redeeming social importance. The section which provided that possession constitutes a legal presumption of knowledge of the contents was deleted.



*"But what happens if we take a licking in the marketplace of ideas?"*



S.B. 79 (Same authors as S.B. 78) concerns the distribution of harmful matter to persons under the age of 18. The bill makes no distinction among persons under 18, some of whom may be married and many of whom are college students. It defines "harmful" according to the first two of the Supreme Court tests but instead of including "utterly without social importance" it says "the redeeming social importance of which is substantially less than its prurient appeal."

This means that for each book which is at all questionable we must decide which is dominant, prurient appeal or social importance. This could include most works of modern fiction, sex education books, and the list could stretch on as long as one's imagination. Prurient interest is to be judged with reference to the average child of the same general age of the child concerned in the case, unless it appears that the matter is designed for a specially susceptible group, in which case it is judged with reference to the probable recipient group. This would require the librarian to determine what might appeal to the prurient interest of children. It is an accepted fact that children mature at different rates. Who is to say what is the "average" 16 year old or 17 year old, and what appeals to their prurient interests?

This bill includes the same provisions as S.B. 78 with respect to commercial exploitation of prurient interest. It also states that reasonable care must be taken in ascertaining the true age of the child in question by inspection of official documents. The type of documents which would be acceptable as proof of age are specifically indicated in the bill—only municipal, federal, or state documents. This limits one to a driver's license, draft card, or birth certificate. Many of our female patrons won't have any of these.

S.B. 79 specifically exempts public libraries and libraries of accredited institutions of higher education which it allows to circulate harmful matter to children, provided that such circulation is in aid of a legitimate scientific or educational purpose. This, of course, requires the librarian to decide what is a legitimate scientific or educational purpose—and his decision may

### We'll Bite: Why?

The *Chicago Tribune* will resume publishing its weekly list of fiction best-sellers next Sunday "rather queasily" after skipping it for a week, Walter Simmons, Sunday editor, said yesterday.

Next Sunday's list, Mr. Simmons said, will not have on it the novel that had been No. 1 in the last list published May 7 — Elia Kazan's *The Arrangement*.

"Sometimes we get so disgusted with the fiction list, with the declining estate of fiction, we look at the whole list and we wonder why we print it at all," Mr. Simmons observed when queried by telephone to Chicago.

The *Chicago Tribune* identifies its list as "Books Today—Among the Best Sellers," based on reports from 14 named stores in its area, rather than describing the list as the 10 topmost in sales. —*NY Times*, 18 May.

be wrong. It does not exempt school, medical, church, or other kinds of libraries. It does exempt parents with respect to their own children.

These bills are scheduled to be heard by the Assembly Criminal Procedure Committee on May 30th. NOW is the time to let your assemblyman hear from you; particularly if he is on the Criminal Procedure Committee.

### A Resolution

WHEREAS, the California Association of School Librarians supports the belief that:

- ... each student has the right to read and to be informed
- ... each person, including the student himself, has the responsibility to protect this right to read and to be informed
- ... each student has the right to study and discuss significant moral, scientific, social, economic and political issues
- ... each student must have access to a wide variety of books and other materials related to the curriculum and to his personal needs
- ... each type of learning material must be evaluated in terms of the course of study, methods of teaching, and personal growth and development of the student
- ... each student, according to his maturity level, has the right to access and use of these materials in order to develop an ability to exercise critical judgment, make wise choices, and be a contributing member of a democratic society
- ... any attempt to impose specific ideas or to limit the thinking of students must be withstood.

RESOLVED, that the California Association of School Librarians is vigorously opposed to any law, however well intentioned, which curtails intellectual freedoms by denying access to literature, art and museum objects, motion pictures and other media of communication on the grounds that such matter is obscene, pornographic or indecent without constitutional safeguards as provided by the United States Supreme Court to protect works of art or literature from arbitrary or capricious censorship.

RESOLVED FURTHER, that the California Association of School Librarians is therefore opposed to the following proposed bills:

A.B. 9      S.B. 78      S.B. 79      S.B. 96  
 as failing to provide those safeguards and/or being so vague and imprecise as to render the law unworkable.  
 Grace S. Dunkley, President  
 California Association of School Librarians

### Cal Students Shape Up

Those of us who formed the "Library Students Organized to Safeguard the Freedom to Read" felt so rushed to get an information table set up in Sprout Hall plaza before the Assembly hearings June 1st, that we didn't have time to discuss the organization with the other Library School students. Here are our ideas.

Our most immediate purpose was to help the California Library Association and booksellers (and ultimately ourselves as professional librarians) distribute literature against Senate Bills 78 and 79. We had to

set up an organization to distribute the literature, because two library students were ordered from the campus for handing out the CLA statement "Freedom to Read" (the CLA isn't a campus organization—the Dean's Office ordered us off the campus). It appears that Proposition 16 in some form or other will recur in California at least once a year. We feel that we can best hold up our end in fighting such legislation by forming an official student organization to disseminate to the campus community literature from the Intellectual Freedom Committees of the CLA and the ALA expressing our opinion on such legislation.

On a broader level we are proud that our profession is in the vanguard in opposing the book burners who are more frequently motivated by political considerations than by concern for morality. We believe that a great number of very worthwhile articles have been written and published by librarians on censorship and book burning. The public is largely unaware of these because they most frequently appear in our professional journals. We propose to distribute reprints and other publications to make the public aware that we are frequently under attack by book burners and need the public's support, and to stimulate discussion and thought on the problem of censorship.

In short our primary purpose is to fight censorship by disseminating information about it.

The four days the table was set up were revealing. We heard comments such as "I didn't know there was a Library School on this campus," and over and over again, "I didn't know libraries had problems with censorship." On one occasion a large crowd gathered around our table to hear law students debate the legal pros and cons of censorship.

On the organizational level the statement we filed in the Dean of Students' Office states that membership is open to any student enrolled in at least 1 course in Library School or any member of the School of Librarianship faculty and staff. Our most immediate problem is to obtain literature for distribution. The literature we have been distributing was given to us by the CLA. However, we cannot expect free literature from CLA and ALA. For a treasury we propose: THE GREAT BUTTON COMPETITION.

The button market is booming in Berkeley. 1,000 buttons, in 2 colors, 1¼" in diameter with union bug cost about \$45. The going rate for buttons is a minimum 25¢. As you can see the profit is about 600%. We propose that there be a competition among students to design a button with some slogan concerning censorship and the freedom to read (Book Power?). The competition could go through the 2nd week of the summer quarter to enable new students to participate. Perhaps faculty members would consent to select the best design. We then must decide how to raise \$45 to finance the buttons. Two alternatives are: 1) that interested students donate small amounts; 2) that a few people lend \$5 or \$10 to be paid back out of button sale profits. Some money for purchasing literature would come from the sale of literature itself. Profit from all this free enterprise would purchase publications and reprints. We invite your comment. —J. Bose, L. Briganti, L. Burley, J. French, E. Rogers. —Students in University of California School of Librarianship, Berkeley.

## 'Ulysses' Film Given Trim by Censors

LONDON (AP)—The British Board of Film Censors has ordered 29 portions of dialog and two scenes snipped from the movie version of James Joyce's novel *Ulysses*, which premieres March 14 in Britain.

The film's American director, Joseph Strick, complained that Britain is "the only country in the world where I have been forced to make cuts." He said one of the eliminated scenes showed a couple making love and the other had undertones of voyeurism.

Strick said the dialog cuts, about 400 words taken from Joyce, would be printed in a leaflet and given the audience before the movie started so they would not be "cheated of the full experience."—*LA Times*, 24 February.

## Court Defines Obscenity Limits

The State Superior Court on 23 March clarified the definition of obscenity in Pennsylvania in overturning the convictions of two Wilkes-Barre shopkeepers on charges of selling obscene literature.

In an opinion written by Judge J. Sidney Hoffman, the court ruled that in order to be declared obscene and hence illegal to sell, a book or magazine "must go substantially beyond ordinary candor in the description or representation of sexual matters."

In the court's view, obscenity is a relative thing. Because of increasingly liberal attitudes toward sex in contemporary society, material formerly considered obscene no longer fits into that category. At issue were girlie magazines and a book describing an adulterous affair.—*Philadelphia Inquirer*, 24 March.

## New Law in National City

The National City (Calif.) city council on 29 March adopted (4-1) an ordinance aimed at barring "harmful material" to children. The ordinance bars from sale or "exhibition" to persons under 18 any magazine, newspaper, picture, drawing, photograph, movie, statue or recording whose "predominant appeal" to minors would "tend to excite lustful thoughts and desires by its description, account or display of nudity, sex or sexual behavior."

### Old Indexes Never Die

VATICAN CITY (AP) — The Vatican will soon publish a quarterly magazine to help bishops decide what books Roman Catholics in their countries shouldn't read, Vatican sources said Wednesday.

The magazine, to be called *Nuntius* (Herald) will be published by the Congregation for the Doctrine of the Faith to replace the index of forbidden books abolished in February 1965.

The sources said *Nuntius* will be a guide and will not dictate what books should be banned. —*Eugene Register Guard*, 26 April.

## Handmaidens All

I  
Nor has there been much beyond bemused dismay at the fact that when it comes to censorship, you've got to really go some to keep up with your local librarian. Since the Fiske study came riding in with the news, all librarians have known this, but no bugles have sounded from Fort Chicago far in the rear. No public confrontation has insisted on these librarians changing their ways. —Karl Nyren in *Library Journal* (15 April) p. 1555.

II  
When *LJ* stops being the handmaiden of censorship-minded librarians, (*Newsletter*, March, p. 13) we'll be more impressed with editorials about the Credibility Gap. LCM

III  
Dear LeRoy:

How unkind of you to keep sniping at handmaidens! I'm not sure my style is right for this role, but since you ask, let me make an attempt at a ladylike reply.

First, *LJ's* editorial position on censorship (by anyone, of anything), as I think you know, is absolute. It is not so because we think this the ideal position or because we particularly dote on some of the murkier stuff along New York's 42nd Street or other similar areas in other cities, but because the myriad attempts at "selective" censorship throughout history have provided a fairly clear indication that a little bit of censorship is like a little bit of pregnancy—it doesn't stay that way. But there I am, being unladylike already.

Our reviewing policy is not really as inconsistent with that position as your one-track approach would have it. A review, necessarily, is an amalgam of fact and opinion (which is one reason why, in my opinion, you can't measure the validity of a review without being familiar with the reviewer as well as with the source of the review). We ask our reviewers, in the brief space they are allotted, to present the most significant facts about a book; and in our case, particularly, the facts most significant to librarians who use us as an aid in their selection decisions.

But when the reviewer has given such facts as locale, cast of characters, historical period, or whatever, he is inevitably left with the more difficult nonfactual area of judgment. It does not seem to me any more invalid for a reviewer to note that a book, because of its slant or emphasis (whether this be political, religious, or sexual), may present problems for the librarian than it is for a reviewer to make judgments about a book's literary quality. Indeed, it could be argued that in many cases the librarian-reviewer's experience better equips him for the former than for the latter judgment.

The basic point is that we see our reviews as a service to our subscribers, giving them as much help as possible in making their selection decisions. Would you have us disguise the fact that *My Secret Life* is something considerably more than a male counterpart of *Little Women*? When I was a librarian in New-

## Kenya Bans Book

NAIROBI, Kenya (AP) — The government has banned the controversial book *The Reds and the Blacks* written by former Ambassador William Attwood out of his experiences as United States envoy to Guinea and Kenya. Attwood now is editor-in-chief of *Look* magazine. —Eugene *Register Guard*, 28 May.

foundland, I didn't buy *Lolita* blindly. I knew that it was going to give me some headaches in that particular community. I bought it nevertheless, because I believed in the book. But I didn't know every new publication as intimately as I knew this one, although I would have been in a better position to make good selection (and administrative) decisions if I had. I would have appreciated, on some other titles I did buy, the kind of information provided by *LJ* reviews. This is not to say that I would not have bought those titles; but I would have been better prepared for the protests that followed in the wake of their selection by the library.

Now I admit that, had I been one of your "censorious-minded librarians," the warning might have been enough to persuade me not to buy the book. But is it not also possible that in that case I would have returned the book to the publisher (as an Iowa library recently returned the Kazan book), or that I might have buried it on some secret shelf? Are you really advocating that we should try to slip a book or two past the censorious mind by not providing pertinent information?

A warning that a book may present certain problems is not tantamount to advice not to buy it. I have reviewed a great many controversial books personally, and on some have issued just the type of warning to which you so vociferously object: that the librarian should be prepared for repercussions. But I have always tried to convey—strongly and clearly—my opinion as to whether the library should or should not buy the book, and this recommendation is not governed by whether the book is likely to present problems with certain readers.

I admit that not all of our reviewers do this with equal facility or with equally good judgment. But we cannot read 7000 books a year in this office, nor write the reviews for them. We must rely on our reviewers quite heavily. And we cannot, I think, if we are really against censorship, practice it on our reviewers and excise any of their opinions with which one or other of us does not happen to agree. What we can do—and do—if a reviewer consistently exhibits censorious attitudes, is to drop that reviewer, or move him to a subject area where his attitudes are less inhibiting.

Finally, as to the matter of an editorial notation at the end of someone else's review, that was an error of judgment. It has rarely been done, and will not be done in the future. Thank you for further drawing our attention to this matter; Bill Katz had already done so.

Eric Moon  
Editor, *Library Journal*



## FPC Bans Carmichael

ST. PETERSBURG, Fla. (AP) — A court order barred Stokely Carmichael from Florida Presbyterian College campus Tuesday but the civil rights crusader preached his gospel of “black power” anyway—on a street corner.

A crowd of about 300 Negroes and 50 whites was orderly as Carmichael called for retaliation against incivility by “hunkies” — his term for white people. He spoke on a corner in the predominantly Negro south side of St. Petersburg. —Portland *Oregonian*, 19 April.

### IV

Dear Eric:

As you know full well, we are handmaidens all and you have played your role extremely well. Now let us see how well I can do with mine, and in doing so would bespeak the response of other readers of the *Newsletter on Intellectual Freedom*. If such response proves to be at all typical, I can very easily promise to publish every letter in full. It would be a pleasure to be proven wrong, in which case I will run a box score.

I would argue that the reviewer's concern is with the book and not with the librarian's potential problems with it, problems which in most instances in most libraries are of the librarian's own making and have nothing to do with the book. I guess I would agree that political or religious slant is a proper part of the content of a review, but what is a sexual slant? Alleged obscenity, or lack of it, is not a criterion of book selection. If a book is a good one, and I would mention the Bible just one more time, the amount or kind of sexual content is not relevant to the selection decision. If the book has an overwhelming amount of sexual content, it will *ipsi facto* not come up very high on a scale of literary quality.

I would not have your reviewers disguise anything. I would only have them work harder at reviewing the book and eschewing easy blanket statements about suitability for large and small libraries, about which they cannot possibly know anything in relation to particular libraries, no matter how great their professional experience. I am advocating that your reviewers review the book and that librarians make their selection judgments without the benefit of a reviewer's blanket judgment about what is good for libraries of particular sizes, sizes which are never very particular anyhow.

I would apply my argument not only to the books we are talking about, whatever they are, but to all of the books you review. It is my contention that such statements say nothing at all about the book or the kind of library to which it belongs, and serve only as an easy out in reviewing for the reviewer, and an easy out for the librarian in selection.

Take another look at the reviews of reference books on page 1819 and 1820 of the May 1st issue. There can't possibly be anything controversial or problematic about any of those books. Except for the review of Collison, which says something specific in its last line about which libraries might need his *Dictionary*

of *Dates*, the concluding statements in my judgment add nothing to the reviews or to my ability to decide whether the library for which I am selecting needs the book or does not. Would your reviews not be better if those lines were edited out? Or, if your reviewers were enjoined from making statements like that, would not the reviews be more carefully specific and discerning?

Let me suggest to you an exercise. Assuming you do not read proof on the book review section of each issue, ask someone to carefully go through all of the reviews in the next issue and block out all such sentences completely so that you cannot know what was there. Then read all of the reviews, and see whether you do not think that your review section has been tightened up and improved thereby.

Cordially yours,  
LeRoy Charles Merritt

## Why Another Obscenity Law?

The Wisconsin Library Association has put on record its opposition to the current bills concerning obscene material for people under 21 now before both the Assembly and the Senate. The opposition is well taken and should be noted by those who think such opposition is only the position of those who want access to dirty books.

The Association states that “research has yet to establish proof of the relationship” between obscene materials and crime. It is concerned with the difficulties of defining obscene materials, the confusion over when persons 18 and over may be permitted some materials by libraries and when they have to be at least 21, and especially with the bill's proposal to establish a commission with authority to investigate alleged obscene materials. It further notes that the State of Wisconsin already has laws about obscene literature and that “further study should precede any enactment of additional laws and that the study be made by a committee comprised of highly competent specialists from the many professions whose work bears on the problem.”

It is true that many criminals seem to prefer obscene material to other literature but no one has yet shown that the material has anything to do with the crime or with criminal tendencies. As we have stated before, most people who would be willing to serve on what is primarily a censorship board are those whose qualification would be most seriously in doubt. Why do we need a law prohibiting the circulation of obscene material to minors when we already have one which prohibits its circulation to everyone?

As the Library Association suggests, any more laws should be preceded by a serious study of all facets of the question of whether to prohibit material and how to do it. And we suspect the last question is virtually unanswerable. —Appleton *Post-Crescent*, 5 May.

## Libraries . . .

For the second time in a little over a year, the Chicago Public Library has banned a work of art from an exhibition by a noted artist who had been invited to show his works in the library's exhibit program. This time the ban involved a print by Letterio Calapai, an eminent printmaker whose works have been hung in major galleries and other institutions in the U.S.

The print which offended Librarian Gertrude Gscheidle was entitled "Ozymandias" and had a representation of a nude man and woman. The artist removed the entire exhibit in protest against the library's demand that "Ozymandias" be left out of the show.

A similar incident occurred in December 1965, when eight paintings of painter George C. Kokines were removed from an exhibition at the library. The disapproval of Illinois librarians for the "censorship" of paintings by the Chicago library led to the adoption by the Illinois Library Association of a recommendation of its intellectual freedom committee, stating that works of art deserved the protection of the principles of the Library Bill of Rights, that "quality be a chief criterion of choice in planning such exhibitions, and that libraries respect and assume their traditional role as conservators, protectors, and promoters of the excellent."

A move to censure the Chicago Public Library for the Kokines incident was reportedly turned back by the Illinois Library Association "because everyone was afraid to buck Gertrude Gscheidle." The occurrence of a similar incident within such a short time after the Kokines banning, has led to speculation that the state association will be faced with further demands that the resolution be invoked.

In a newspaper story printed in Chicago, Miss Gscheidle stated that the print by Calapai was "just not in keeping with the objectives of our art department display" although she added that she would not categorize the print as "lewd" or "obscene."

"We have children, from small youngsters all the way up, and all kinds of people coming through the library," she said.

The artist, Letterio Calapai, said of the prizewinning print, "I consider it one of my most important prints . . . to remove one print from a carefully planned exhibition of a body of my works is like tearing the page from a serious book."

The increase of art exhibits in libraries, coupled with the frankness of much current art, suggests wide implications in the Chicago incidents. —*LJ*, 1 May.

### Oklahoma Beefs Up Its Law

Oklahoma's obscenity statute was strengthened (it says here) on 19 April when the state senate accepted (37-1) house amendments to its previously passed bill. Major change in law is to remove prosecution need to prove that "distributors 'lewdly' distributed smut." Maximum fine was increased from \$500 to \$5000.

## . . . Nightclubs . . .

DES MOINES, Iowa (AP) — A portrait of a nude woman painted by a minister's wife has been taken down in a Des Moines nightclub, because police said it was too realistic.

William Morrissey, operator of the San Francisco Lounge, said he paid Mrs. Carole Hodges \$750 to paint two murals and two nudes for his club.

The artist is the wife of the Rev. Robert Hedges, rector of St. Timothy's Episcopal Church.

"The thing that bothers me most," she said, "is that vice squad detectives evidently are taking it upon themselves to determine what paintings are morally objectionable to nightclub patrons in Des Moines.

"It's a form of censorship—almost like book burning. There's a thin line between what is pornographic and what isn't. If a nude painting is in a museum, it's art. If it's in a nightclub, it's pornographic." —*Santa Ana Register*, 5 May.

## . . . and Salk Institutes

LA JOLLA—A controversial art show at the Salk Institute for Biological Studies reopened Friday after a compromise was reached between the three exhibiting artists and the institute's president, allowing display for adults only of three "offensive" works.

The artists had withdrawn their exhibition May 1 to protest removal from the show by Dr. Augustus Kinzel of two works the president said desecrated the American flag and another of a nude that he considered offensive.

The three controversial works will now be hung in a separate room guarded by a Pinkerton detective and admission will be restricted to adults. —*LA Times*, 13 May.

## This IS News

WASHINGTON (UPI) — Defense Secretary Robert S. McNamara Monday ordered military commanders to stop censoring news to servicemen.

He said GIs are "entitled to the same unrestricted access to news as are all other citizens."

The directive resulted from disclosures in Congress that field commanders, in dozens of cases, had stopped publication and broadcast of news items dealing with "sensitive" subjects.

McNamara ordered a policy of "maximum disclosure of information except for that which would be of material assistance to potential enemies."

### *Bans Interference*

"Interference with this access to news," he declared, "will not be permitted. The calculated withholding of unfavorable news stories and wire service reports from troop information publications such as *Stars & Stripes*, or the censorship of news stories or broadcasts over such outlets as the Armed Forces Radio and Television Service, is prohibited."

"News management and meddling with the news will not be tolerated, either in external public information or internal troop information," he said. —*LA Times*, 2 May.

## Forester in the Thickets of the Law

John Bunis, in his fight against police censorship of his Clinton Book Shop, brought a motion before Judge Jerome Wolff in Monroe County Court on April 12 to suppress the use of evidence on the grounds that the search warrant that Rochester police used to raid the bookstore was defective.

"The warrant failed to specify what was to be seized," argued Bunis' attorney. "It vaguely directed the police to seize 'obscene material' from an inventory of more than 150,000 items, and the U.S. Constitution protects citizens against unreasonable searches by demanding that warrants 'particularly describe . . . things to be seized.' Without such protection, police could make general explorations for anything they happened to feel was objectionable."

But look at all the obscene material the search turned up, argued the prosecution, indicating the more than 600 items seized from the bookstore.

Bunis' attorney said that the search was indefensible even if it turned up the Devil himself and compared the prosecution's argument to a dialogue in Robert Bolt's play, *A Man For All Seasons*.

In the play, William Roper said to Sir Thomas More, ". . . you'd give the Devil benefit of law?"

More replied, "Yes. What would you do? Cut a great road through the law to get after the Devil?"

Roper said, "I'd cut down every law in England to do that!"

More said, "Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down— . . . do you really think you could stand upright in the winds that would blow them? Yes, I'd give the Devil benefit of law, for my own safety's sake."

The argument succeeded. Evidence seized from the December 16 raid on Clinton Book Shop cannot be used against John Bunis, and the court will direct that the items be returned to Bunis.

The battle now shifts to the items seized from Bunis' home. There will be a hearing on May 18 to determine its admissibility in the trial of John Bunis, or if the search warrant in that instance was also defective.

And with the trial the great question will arise. Questions of freedom of speech and the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. And is the New York State law constitutional that says possession of six identical or similar items presumes an intent to sell? And why should John Bunis, with an inventory of hundreds of thousands of items, bear the responsibility for what is and what is not obscene? Especially when the currents and eddies of right and wrong, which Rochester police seem to find such plain sailing, has been navigated only with consummate difficulty by the best legal minds in America.

A little more of Sir Thomas More. —*Audience Unlimited News*, April-May.

## SDLA Makes a Point

"The S.D.L.A. restates and reaffirms its support of the A.L.A.'s statement on Library Bill of Rights and the American Book Publishers Council "Freedom to Read" statement."

"We resolve that the SDLA publicly opposes all legislative attempts, whether federal, state, or local, to create any commission, agency, or other official body whose purpose would be to investigate, oversee, or suppress any literature or materials which the commission or agency defines as, or suspects is, 'noxious and obscene'."

These resolutions, adopted by the South Dakota Library Association on 30 September, 1966, were sent to U.S. Senator Karl E. Mundt, author of S. 309, a bill to create a Commission on Noxious and Obscene Matters and Materials. Replied Senator Mundt:

"I do not believe I am familiar with the American Library Association Library Bill of Rights and the Freedom to read statement of the American Book Publisher Council but the resolution expressing the specific viewpoints of the South Dakota Library Association is in harmony with my own approach to the very serious problems created by the sale and distribution of obscene printed material which frequently comes in the form of lewd pictures or cartoons and sometimes is sent out in printed form.

"In all events, in an effort to do something effective to stop the smut peddlers to continue to become virtually a billion dollar racket in filth, which we are told is contributing to growing juvenile delinquency, I have twice introduced a bill which has passed the Senate and is before the House of Representatives. You will note the blue ribbon commission proposed by my resolution, of which I am enclosing a copy, is not one set up to oversee or suppress any literature or material. It is in fact, not an action commission at all except to investigate, study, and try to determine what constructive steps which will not smack of censorship might be taken to lessen the traffic in smut. I would certainly not favor any system of censorship but on the other hand, I do believe that criteria can be developed which should be able to screen out certain types of material which are being used to pervert young Americans in increasing numbers. I should add that the U.S. Supreme Court in its fall session is also going to try to undertake to establish some criteria in this same difficult area."

Our thanks to SDLA IFC Chairman William E. McGrath for bringing these statements to our attention.

### CC to NOIF, Please

Frequently students ask why the mag *Playboy* isn't in the library. Is it in yours? If so, why? If not, why? Please let the editor know your thoughts on this one. —RQ, Spring, 1967.

## Even the Bar's Doing It

NEW YORK, April 11 (AP)—The New York County Lawyers Association has asked the State Supreme Court to enjoin further sales of the best seller, *How to Avoid Probate*. The 9,900-member association argued before Justice Charles Marks that the book—by Norman F. Dacey—constituted the unauthorized practice of law.

It also asked the court to find Dacey; Crown Publishers, publisher of the book; and Doubleday & Co. and Brentano's Inc., distributors of the book, in contempt of court.

This charge, which carries a maximum jail sentence of 30 days and a \$250 fine, maintained that all those named had either practiced law without a license or encouraged unauthorized practice.

Marks reserved decision. —Pittsburgh, Pa., *Post-Gazette*, April 12, 1967.

## Right to Read

In attempting to enjoin the further sale of the book, *How to Avoid Probate*, the New York County Lawyers Association has raised questions that go beyond the merits of the book.

The lawyers charge the book advising persons how to plan their estates without legal costs, constitutes the practice of law without a license, and hold the court must bar its sales to halt further misleading of the public.

Since the book has been adjudged a best-seller for 48 weeks, the lawyers seem to be a little late, and their move to ban the book may backfire in the form of expanded sales. But beyond that is the issue of the right of the state to suppress a book except in cases of outright fraud or flagrant prurency.

The charge that the public may be misled by a book hardly justifies a court order forbidding its sale. The medical profession, for example, has been annoyed by the publication of countless tracts by health fadists. But in most cases physicians have been content to warn the public of the dangers in such books without attempting to suppress them. —Greenville, O., *Advocate*, 20 April.

### Awk!

AUCKLAND, New Zealand (AP) — Men and women will see the movie version of James Joyce's "Ulysses" in separate movie houses in New Zealand in June.

The government film censor ordered that the film be shown only to persons over 18 years old and only to segregated audiences.

A spokesman for the film distributors said it would be the first simultaneous screening for separate sexes in New Zealand's theaters. —Portland *Oregonian*, 2 May.

## First Amendment Stands

WASHINGTON (AP) — The Supreme Court gave "girlie" magazines and spicy paperbacks First Amendment free-speech protection from prosecution Monday.

In a 7-2 decision it threw out obscenity ruling against publishers and retailers of 10 magazines and two paperbacks.

"We have concluded, in short, that the distribution of the publications in each of these cases is protected by the First and 14th amendments from governmental suppression, whether criminal or civil," the unsigned opinion said.

The ruling, in cases from Arkansas, Kentucky and New York, followed seven months of deliberation. Justice John M. Harlan, and Tom C. Clark dissented.

The magazines given free-speech protection are *Swank*, *Gent*, *Modern Man*, *Bachelor*, *Cavalcade*, *Gentleman*, *Ace*, *Sir*, *High Heels* and *Spree*. The paperbacks similarly protected are *Lust*, *Pool* and *Shame Agent*. —Portland *Oregonian*, 9 May.

## Smut Finding Overturned

WASHINGTON (AP)—The Supreme Court threw out Monday the conviction of David E. Keney, operator of a magazine store in Rochester, N.Y., on a charge of selling obscene books.

The conviction followed purchase by two policewomen of three books entitled *Lust School*, *Lust Web* and *Sin Servant*. The books were part of a shipment of 100 books which arrived two days before the policewomen made their purchases on April 25, 1963. Keney testified he had no knowledge of their contents.

Keney was fined \$500 and sentenced to four months in the Monroe County, N.Y., penitentiary.

Keney's appeal to the Supreme Court asked a determination whether contemporary community standards by which obscenity is to be determined, under a 1964 decision by the highest tribunal, are those of a particular local community or of the nation as a whole. —Portland *Oregonian*, 13 June.

## Official Censorship

Any official censorship tends to totalitarianism. When I weigh the evil of government control over private thought and action against the evil of uncensored and uncontrolled pornography, I must choose the lesser evil, no censorship—certainly no more than we have today. In my opinion, pornography should be strongly censured from the pulpit, rostrum and hearth — the stronger and louder the better. But, having listened to such denunciation, people should be free to decide what they will read and see. No adult is compelled to buy or view filthy pictures, salacious magazines or books, or go to immoral movies, or tune in sadistic television programs. If he does so, his option should be a free one . . . Censorship, like charity, should begin at home; but, unlike charity, it should end there.—Claire Boothe Luce, "Without Portfolio," *McCall's* mag. —As quoted in *AB*, 10 April.

## Judges Not Competent— But Juries Are

Prosecutors charged with upholding the public's concern in the fuzzy area of obscenity have been given a lift by a significant decision of the California Court of Appeal.

At issue was whether a judge may, by merely looking at a publication and considering no other evidence, rule that it is constitutionally protected and therefore not obscene.

He may not, the appellate court said in a unanimous opinion by Justice Roy L. Herdon, Macklin Fleming and Philbrick McCoy. The case of David Noroff and the magazine *International Nudist Sun* was returned for trial in Municipal Court.

Municipal Judge Sherman W. Smith (now on the Superior Court) had dismissed the case on the ground the magazine "is not obscene within the Penal Code definition of obscenity."

Without ruling on whether or not the magazine was obscene, the Court of Appeal held that Judge Smith erred in deciding the issue as a matter of law solely by examining the magazine.

"The ruling of the trial court erroneously deprived the people of their right to a jury trial on the issue of obscenity and of their further right to introduce competent evidence," said the opinion, written by Justice Herdon. It added:

"The trier of the facts should first determine all issues bearing upon the guilt of the defendant, including the issue as to the obscenity of the material viewed in the factual context of the case as developed by the evidence." —Gene Blake in *LA Times*, 24 April.

## In the Old Dominion

NORFOLK—Dr. Leland D. Peterson, faculty adviser to a beleaguered Old Dominion College literary magazine, charged today that Councilman Sam Barfield, the anti-smut crusader, is behind the move to purge ODC publications of dirty words.

Peterson, adviser to *The Gadfly* and president of the ODC Faculty Senate, told a standing room only crowd of more than 200 at the ODC library auditorium:

"It is my opinion that the administration of this college is either being pressured or unduly influenced by the anti-pornography campaign of Councilman Sam Barfield.

"Now heaven knows that all of us are solidly behind Councilman Barfield and his desire to eradicate smut, but not all of us are absolutely certain that he and his more zealous followers have the competence to draw infallibly the line between smut and non-smut," he added.

Peterson also said that six days before the March 1 banning of a student newsletter by the ODC administration for the use of obscene words, Barfield asked the college whether the novel *Catcher in the Rye* was being taught to sophomores. —Norfolk *Ledger-Star*, 3 May.

## Victory for Historians

Ever since Pittsburgh Steel Tycoon Henry Clay Frick left his strong-willed daughter a fortune that has grown to at least \$38 million in five decades, Helen Clay Frick has spent her life idealizing his "Christian" memory and devoting his cash to such cultural works as Manhattan's Frick art museum. Thus in 1964, Miss Frick was incensed when she unwrapped a Christmas present: Historian Sylvester K. Stevens' *Pennsylvania: Birthplace of a Nation* (Random House), which limned her "stern, brusque, autocratic" father as the hard-knuckled "Coke King" who forced Pennsylvania coal miners to toil for \$1.60 a day and crushed "the disastrous Homestead strike of 1892."

Calling Stevens a liar, Miss Frick sought to enjoin further sale and publication of the book—an effort that most lawyers viewed as doomed. After all historians have freely depicted dead persons as they pleased throughout U.S. history. All the same, Miss Frick sued under a 1944 Pennsylvania precedent defining a libel as a publication "tending either to blacken the memory of one who is dead, or the reputation of one who is alive." Though rare, statutes in several states make defamation of the dead a crime. The possibilities of a Frick victory alarmed historians across the country.

Last week those fears were put to rest by Cumberland County Judge Clinton R. Weidner, who ruled not only that Stevens' book is accurate and protected as free speech—but also that Stevens was actually too polite to Tycoon Frick. If his daughter were upheld, said Judge Weidner, "our bookshelves would be either empty or contain books written only by relatives of the subject." He added: "Miss Frick might as well try to enjoin publication and distribution of the Holy Bible because, being a descendant of Eve, she does not believe that Eve gave Adam the forbidden fruit in the Garden of Eden." —*Time*, June 2.

## Virginia Obscenity Law OK

COVINGTON—Circuit Judge Earl L. Abbott has ruled that Virginia's obscenity law is constitutional and, as a result, "The Swingers"—a book called obscene by the Commonwealth—will go on trial in Alleghany County Circuit Court.

Judge Abbott has advised lawyers in the case that the state statute is constitutional and the court has jurisdiction. The constitutional and jurisdictional issues were raised earlier by a lawyer for a Roanoke distribution agency. —Roanoke *Times*, 10 February.

### DeSade In Rem in Chicago

History is being made in Chicago where the Illinois State's Attorney's office will soon open legal action to determine whether the works of the Marquis de Sade are obscene. Pending this action, Chicago book stores may continue to display and sell his books.

This is remarkably at variance with the normal practice of arresting booksellers carrying titles that might subsequently be found obscene by the courts. —*Readers' Right*, April.



## Intellectual Freedom Kit

The Wisconsin Library Association has put together an Intellectual Freedom Kit which is available for One Dollar (\$1.00) from WLA at 201 West Mifflin Street, Madison 53703. Included are:

1. "What to do Before the Censor Comes—and After." Reprint from *NOIF*, September 1965.
2. *Newsletter on Intellectual Freedom*, September, 1966.
3. "The Freedom to Read." ALA and ABDC, 1953.
4. *Freedom to Read*, by Peter Jennison. Public Affairs Pamphlet, 1963.
5. *Freedom of the Mind*, by William O. Douglas. ALA, 1962.
6. *The Students' Right to Read*. NCTE, 1962.
7. *Combatting Undemocratic Pressures on Schools and Libraries*. ACLU, 1964.
8. "Intellectual Freedom is the Issue," *Wisconsin Library Bulletin*, May-June, 1964.

## Washington Super Probes Ban

District of Columbia superintendent of schools Carl F. Hansen on March 2nd appointed Dr. Martin Sobel, Director of Human Relations for the District Schools, to conduct an inquiry into the ban on a student newspaper at Hine Junior High School. The inquiry was sparked by a letter from the National Capital Area Civil Liberties Union which called the action of Hines Principal John C. Hoffman "unjustified and reprehensible" and asked Dr. Hansen to review the issue and "make clear your policy that the basic rights of junior high students to learn and to express opinion will not be suppressed or hindered." One of the reasons for banning the three-page mimeographed paper stemmed from an editorial claiming that students had been hit by teachers.

The NCACLU letter also asked Dr. Hensen to "protect the rights of teachers to use suitable materials without interferences based on the personal prejudices and idiosyncrasies of administrative authorities." This was a reference to a charge by a Hine teacher, Mrs. Susan Huff, whose class put out the controversial paper, that Mr. Hoffman had forbidden her to play a civil rights record in class and that school authorities had objected to some of the books she used in her classes during Negro History Week.

In his response to the NCACLU, Superintendent Carl Hansen wrote that the school has "already been advised that suppression of student writings is unfortunate and contrary to our point of view."

A compromise appeared in the offing on 16 March when it was reported that the principal had offered to allow the writing of an editorial backing home rule for Washington, provided another editorial taking the opposing point of view was also published. Senior Jeremy Pikser, editor of the editorial page, thought the staff might be willing to go along with that suggestion.

## Librarian: "You Wouldn't Like It"

Censorship was one of the issues discussed April 4 in Trenton at the annual meeting of the adult service section of the NJLA. According to the Newark *Evening News*, the librarians seem to feel that their role did not include protecting the adult borrowers from themselves. The *News* quoted a Middlesex librarian who told of a conversation with a frequent borrower. "The lady returned a best seller, complaining it was loaded with dirty passages, and then promptly asked, 'Do you have other books by this author?'" In general, the *News* reported that most librarians tend to agree that the public taste for books with explicit sex passages seems insatiable.

Mary Binter of the Bergenfield library was said by the *News* to doubt that books drive readers to certain deviant actions. "Our mystery fan readers are not expected to do in a mother-in-law with an ax after reading a murder book. I don't think a reader would be inspired to experiment after reading certain sex novels. . . . In the long run we must accept that most books are offensive to someone."

Speaking of children's reading habits, Mrs. Irene Gitomer of the Cerry Hill library was quoted as saying, "Children should read what impels them to read, and if they don't understand it, they will drop the book."

Mrs. Mildred Scobil of the Bloomfield Public Library spoke of the method used by her library to discourage children from borrowing gamey books: "Starting in seventh grade, a youngster in our library can use the adult section. When they come up to the desk with a questionable book, we suggest they wouldn't like it. This usually discourages them." —*Readers' Right*, April.

## Iowa Studies Censorship

IOWA CITY, Iowa—The censorship of magazines and books in the United States is being studied by three men in the University of Iowa political science department under a \$12,000 grant from the Walter E. Meyer Research Institute of Law.

Title of the project is "Censorship of Periodicals and Books and Its Relationship to the Community Legal Process." Working on it are Assistant Prof. G. R. Boynton, Prof. Joseph Tanenhaus, and graduate student Douglas Edmonds.

The researchers have mailed questionnaires to distributors of magazines and books all over the country, asking about censorship and pressure which they encounter while trying to distribute their publications.

During the summer, the researchers and staff members will make field trips to various regions of the country, to visit communities with and without censorship and gather more detailed information.—22 March, 1967.

## A Library in Iowa Bans Kazan Book

By PETER KIHSS

The nation's No. 1 fiction best seller, *The Arrangement*, has been barred from an Iowa municipal library as "too obscene," and its publisher has countered by offering a free copy to every adult head of family in the community of 8,600 residents.

The offer of the Elia Kazan book is being made by Sol Stein, president of Stein & Day, Inc., in a letter to be printed today in *The Mount Pleasant* (Ia.) *News*. Mr. Stein wrote that he wanted the citizens to decide for themselves if their library board was "practicing a form of censorship inconsistent with American traditions."

Mrs. Rosemary Atwell, representing the library board, chortled yesterday when informed of the countermove, and exclaimed, "We'll be very happy to accept the challenge of Stein & Co."

She disclosed that the board, under a new policy of crusading against obscenity, had sent not only the Kazan book back to its publisher but also a Doubleday & Co. novel, *Fathers and Dreamers*, by Dallas Miller. —*NY Times*, 3 May.

And where stands the librarian? And the Iowa Library Association? LCM.

By 15 May more than 800 residents of Mount Pleasant had accepted Stein's offer.

## Censorship in Iowa

With a handful of exceptions, every public library must exercise rather stringent choice in selecting books for its shelves. In most cases, neither space nor budget permits buying every book that comes along.

A pertinent question arises: When does the legitimate exercise of choice become censorship? A fair answer might be: When a selection is dictated not by such considerations as cost and likely interest among library patrons, but by a desire to shield readers from what is for one reason or another deemed objectionable.

The banning of Elia Kazan's novel, *The Arrangement*, from the municipal library at Mount Pleasant, Ia., provides a case in point. The fact that the novel has been on the national best seller list sharpens the point, though the principle would be the same had the book found little public favor. As matters stand, the town library board has decided that a work of fiction which has attracted nationwide interest and has received much critical acclaim is just "too obscene" for the tender sensibilities of the folks in Mount Pleasant.

The publisher of the book, Stein & Day, has given the affair an intriguing twist by offering a free copy to any adult head of a family in the town who wants one. Thus this attempt at practical censorship has had the result that such efforts often bring: it is giving the controversial book a lot of free publicity and potentially a far wider readership than it might otherwise have enjoyed. But that is of secondary importance.

The real question is whether a public library board has any right to decide what its patrons ought or ought not to read. We say it has no such right. That decision is strictly the reader's prerogative. —*Evansville, Ind. Courier*, 9 May.

## Several Days in the Life of I. D.

The Escambia County, Florida, Board of Public Instruction came under heavy pressure on February 15th from County Sheriff William E. Davis to remove from school libraries all copies of *One Day in the Life of Ivan Denisovich* by Alexander Solzhenitsyn. The book apparently came to Davis' attention through his daughter who is a sophomore at Woodham High. Davis disavows any political overtones in his objection, but says he is complaining about the language used in the book.

Several high school principals in the county confirmed that they had been visited by sheriff's deputies asking about the book, but said they had not removed it. Said Escambia High Principal Sidney W. Nelson, "I am in the process of reading it and very likely will take it off the shelf, but we have these same words on our restroom walls and I'm not going to take out the restrooms." Principals at Woodham High and Washington High said they had no plans to ban the novel. They made the point that the book was recommended high school reading by the *Standard Catalog for High School Libraries*, 1964 Supplement, "We can't afford to lose a book like this. If we do, they will take half our library."

Davis' initial step was to write a letter to the County Board of Public Instruction requesting that the book be removed. County School Superintendent J. E. Hall noted that the book is no worse than other volumes already on the shelves, such as *The Grapes of Wrath*. The sheriff appeared before the School Board at its meeting on February 22nd to make his case against the book.

It was reported on 9 March that three more complaints had been received on Ivan D., and four on Aldous Huxley's *A Brave World*. Both books have been removed from schools pending a report by a review committee to the Superintendent of Schools.

### Fan Mail, 3rd Hand

*Item:* A (public?) librarian from California, confronted with local pressure "to remove certain volumes from my shelves," writes for advice and asks for "a strong quote . . . something suitable to show the book burners before they have a chance to strike their figurative matches." But to whom does she write? To her national or state professional library association? To the Intellectual Freedom Committees of either of these organizations? To one of the national library periodicals? No, she writes to *Playboy* (May 1967, p. 60). The potential book burners, of course, will be persuaded by being handed the gospel according to Hugh Hefner! *Playboy*, to its lasting credit, however referred this librarian to ALA's *Newsletter on Intellectual Freedom*, and specifically to a recently quoted and excellent policy statement by the Palisades Public Library, New York. But what kind of picture does this librarian's letter convey of the profession's competence in an area of basic library philosophy and practice? —Eric Moon, *LJ*, 15 May.

## A Meaningless 'Smut' Bill

A bill to protect persons under age 18 from "harmful" pictures and printed matter and movies that is so broad, loosely drawn and unenforceable that it is meaningless has passed the Minnesota House.

In a clumsy attempt to be precise it sets forth standards that would proscribe reproductions of great art works, the National Geographic magazine and medical books. The idea is that nudity, as such, is obscene, and this is contrary to simple good sense.

Among the acts of "sexual conduct" the bill finds objectionable is "physical conduct" with a person's clothed, or unclothed, buttocks or, if such a person be a female, breasts. What could this possibly mean? On its face, it covers a mother spanking a child or a husband embracing his wife.

And there is a wide loophole, making it all but impossible to get a conviction. The accused's defense is that he didn't know the contents or that the person who bought or borrowed the material was under 18.

A far better bill, which would give courts rather than police the authority to test alleged obscenity against community standards, with provision for a jury trial, is slated to get a hearing before the House Judiciary Committee in about a week.

Legislators freely conceded that they can't afford to vote against *any* "anti-smut bill." It appears that the already passed bill will have tough sledding in the Senate, and if the legislators in both chambers feel they must protect their record as being against "smut," the intelligent way is to forget this loose, and doubtless unconstitutional, measure and vote for the second bill.—*Minneapolis Star*, 2 March.

## Seattle Schools Ban Carmichael

The Seattle School Board reaffirmed Tuesday its decision to deny the use of Garfield High School here for a speech by Black Power advocate Stokely Carmichael April 19.

It acted after Charles O. Carroll, county prosecutor, held the board had the right to refuse.

Board chairman Robert A. Tidwell said the local branch of the Student Non-Violent Coordinating Committee, of which Carmichael is national chairman, rejected a suggestion that "a panel of reactors" appear on the same program.

"We feel," said Tidwell, "that if a public school were to be used by a controversial figure such as Mr. Carmichael then a full discussion of all related views should be heard."—*Eugene Register-Guard*, 4 April.

A week later, on 11 April, Superior Court Judge Frank James ruled that Carmichael must be allowed to speak.

The judge said he was certain the board was sincere in believing that the speech might constitute a danger and might be inconsistent with a school program designed to relieve racial imbalance in the area.

But James said the board overlooked a "greater danger" in asking that he give judicial sanction to what would amount to restraint of Carmichael's right to speak "even though things he may say are offensive to most of us."—*ERG*, 12 April.

## Houn' Dog Lives On

Eugene Human Rights Commission members on 28 March turned down a proposal that they make an issue of a children's book which one member said presents a stereotyped "pickaninny" image of Negroes.

They vigorously opposed Mrs. John Loughary's suggestion that they ask the Eugene Public Library to allow the book, *Nicodemus and the Houn' Dog*, to "die out." Mrs. Loughary carefully avoided any suggestion that the commission try to ban the book.

What she suggested was that the library not reorder the book when the present two copies—one of them almost new—are worn out.

Mrs. Loughary said she found the book "personally offensive" because the Negro youngster who is its main character is portrayed as "a very lazy little boy and a very dumb little boy."

Mrs. John MacKinnon, another commission member, termed the suggestion "ridiculous" and commented, "It would die a natural death if it weren't a good book."—*Eugene Register-Guard*, 29 March.

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