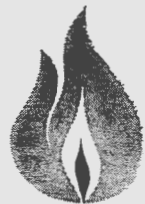


newsletter



IFC ALA

# on Intellectual freedom

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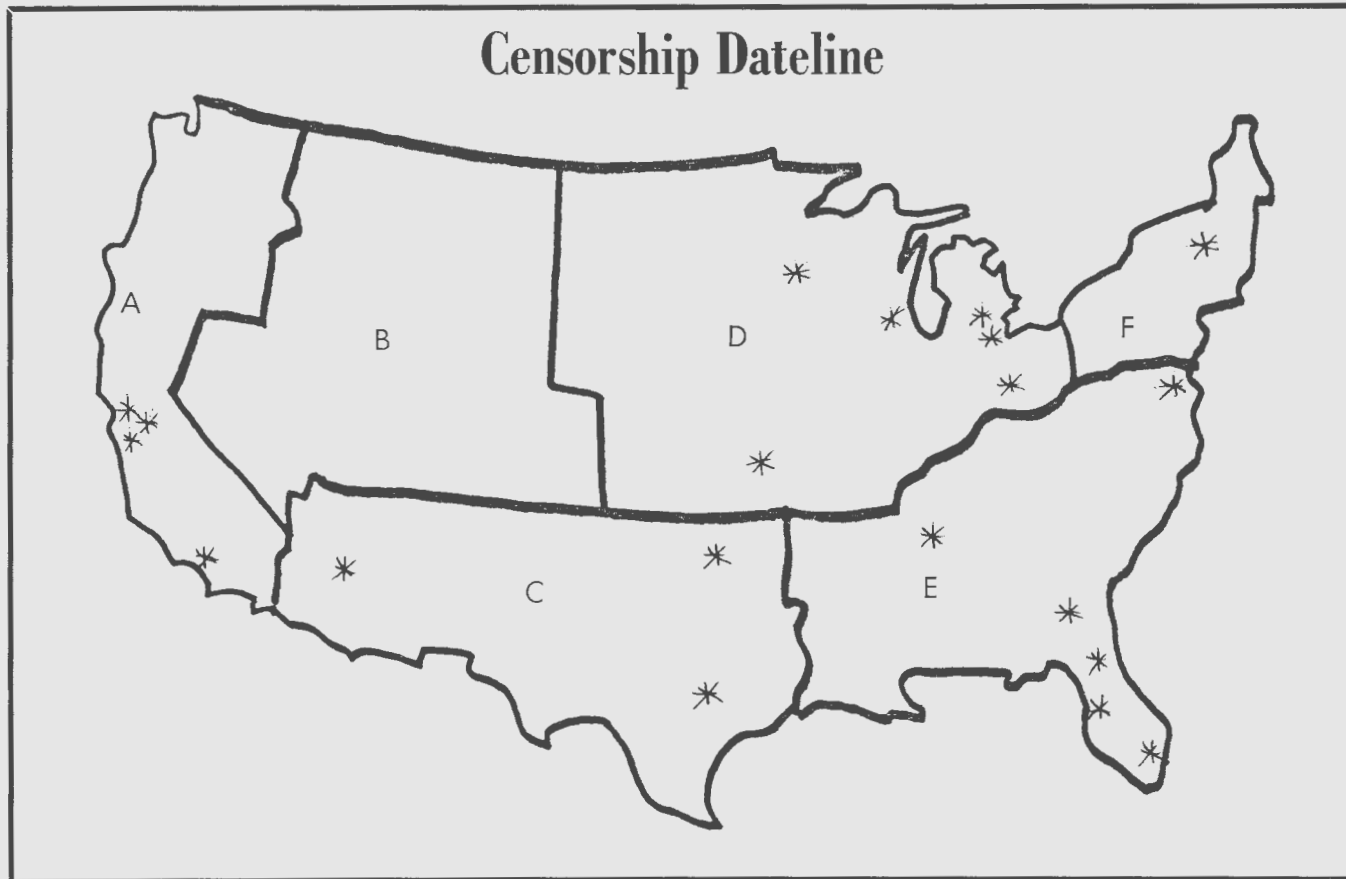
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## A Statement of Principles

Intellectual freedom means for the librarian: freedom to develop, maintain, and improve library service to the end that each citizen can assume the responsibility placed upon him by a democratic society to educate himself continuously and to improve his ability to participate usefully in activities in which he is involved as a citizen of the United States and of the world. Intellectual freedom implies freedom in the selection of books, in the presentation of material on all sides of controversial questions, and in the dissemination of information on all subjects. It presupposes an acceptance by the institution of the principles of the *Library Bill of Rights*. Intellectual freedom precludes partisan political control of appointments and makes it possible for librarians to devote themselves to the practice of their profession without fear of interference or of dismissal for political, religious, racial, marital, or other unjust reasons.

The librarian is a citizen, a member of a learned profession, and a representative of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence, he should at all times show respect for the opinion of others, and should make every effort to indicate that he is not an institutional spokesman on controversial issues. (Excerpted from: Adopted by ALA Council, June 21, 1946.)

## Censorship Dateline



### (A) PACIFIC COAST STATES

*Berkeley, Ca.* The Lawrence Radiation Laboratory has been struck by a series of free speech controversies in recent months. The laboratory, operated by the University of California and almost entirely funded by the Atomic Energy Commission, has facilities in Berkeley and Livermore, Ca. Each has been under fire for allegedly stifling open discussion of controversial issues. The Berkeley facility, a leading center for the study of high-energy physics and fundamental nuclear science, has been split by an internal debate over the right of scientists to hold formal political discussions at the laboratory during their lunch hours. The controversy has led to the banning of meetings, the circulating of petitions and counterpetitions bearing hundreds of names, the publishing of an underground newspaper, and the suspension of a controversial physicist. The Livermore facility, a major center for developing nuclear weapons, has been accused of trying to muzzle two staff scientists who contend that existing radiation standards are too lax to protect the public from nuclear radiation hazards. Livermore has also been the target of demonstrations and of a lawsuit seeking to open the weapons laboratory to allow discussions between outsiders and staff scientists

concerning the implications of weapons research. Reported in: *Science*, August 21

*Los Angeles, Ca.* The State Board of Education ordered several new social studies textbooks rewritten to conform with criticism made by "right wing critics" who said the books promoted a variety of attitudes contrary to their concept of god and country. The books, recommended for K-4 by the State Curriculum Commission composed of experts who worked with 5,000 teachers to screen 1,500 books, were endorsed at a public hearing by almost every professional and administrative organization in the state. State Superintendent of Education, Max Rafferty, and a majority of the Board (all appointed by Governor Reagan), voted to accept the recommended texts, but only if several of them be changed to conform to criticisms raised. Especially attacked was the use of the "inquiry" method of teaching in the books rather than a straight presentation of facts. Clay N. Mitchell, a Board member said "children ask too many questions anyway." Other objections included one from James E. Proffitt, from United For God and Country, who said the books promote "one people, integration, one-worldism, sharing, and regional government," thus replacing the Christian ethic with humanist values.

Reported in: San Francisco, Ca. *Chronicle*, July 10  
*San Francisco, Ca.* Acting on a request from the San Francisco Citizens Committee on Social Order, the Board of Permit Appeals voted 4-1 to close "Peekerama," a "nudie movie" theater. This was the fifth closure ordered by the Board. George T. Davis, attorney for one of the theater owners, called the Board's actions "witch hunting." He said he would file for a restraining order on behalf of his client. Peter Boudoures, the only dissenting Board member said he is in favor of banning all such movies, but feels he cannot vote that way because "the courts have ruled them legal." Davis claims each Board member was requested by the City Attorney's office to vote against the theaters. "Absolutely wrong," said Board Chairman Fred Ainslie before voting in favor of "social order" on the screen. Reported in: San Francisco, Ca. *Examiner*, July 21

*San Francisco, Ca.* The Board of Supervisor's Fire, Safety and Policy Committee passed for the review of the entire Board a proposed city ordinance to regulate "adult" movie theaters. Gerald Shaughnessy, director of the special services (vice) squad, testified in favor of the ordinance because he said "skin flicks" are responsible for an increase of rape and prostitution in the city and attract organized crime. Reported in: San Francisco, Ca. *Examiner*, August 14

(B) ROCKY MOUNTAIN STATES  
ALL CLEAR!

(C) SOUTHWESTERN STATES

*Scottsdale, Ariz.* School administrators, pressured by parent committee opposition, apparently agreed to remove Quest and 3-M programs from proposed health curricula. Both programs emphasize SIECUS films and books in supplementary reading lists. Reported in: Phoenix, Ariz. *American*, July 23

*Tulsa, Okla.* Deno Ladas, a resident of Tulsa, requested that *Evergreen Review* and *Ramparts* be removed from the Tulsa Public Library, charging that they approach "sedition besides being pornographic. They are not appropriate for a tax-supported institution." (See article on p. 98 for details and further developments.) Reported in: Tulsa, Okla. *Tribune*, September 17

*Houston, Tex.* Officials of J. Frank Dobie High School stopped campus distribution by non-students of a "radical" newspaper because it violates school policy prohibiting the distribution of unauthorized material without the permission of the principal. Said Pasadena Superintendent George H. Thompson, "School principals have responsibility for deciding what will be distributed on campuses." Allen Sory, Dobie principal, said, "I can't see it would do a bit of good. I don't approve of that kind of literature. The language and

other things are detrimental. I have great faith in my students." Reported in: Houston, Tex. *Post*, September 3

(D) MIDWESTERN STATES

*Lawrence, Kan.* The finances and auditing committee of the University of Kansas student senate has recommended cutting off funding of the controversial student paper, the *Oread Daily*. The paper no longer receives supplies or funds from the senate, or the privilege of using the senate's mimeograph machine. Recent editions apparently were financed by sales of refreshments by Catalyst, a militant campus group, it was reported. Reported in: Topeka, Kan. *Journal*, September 9

*Birmingham, Mich.* The City Commission approved a preliminary set of guidelines for proposed outdoor art exhibits that include a provision for censorship of works ruled "objectionable for any reason." A required permit from the city will allow close control of materials exhibited. Reported in: Birmingham, Mich. *Eccentric*, July 23

*Detroit, Mich.* Wayne County Prosecutor William L. Calahan announced the confiscation of more than \$50,000 worth of allegedly pornographic films in raids on six Detroit area bookstores. Six men were arrested and charged with possession of obscene materials. After viewing brief samples of the films and hearing descriptions of others, Recorder's Court Judges Colombo and Maher signed search and arrest warrants authorizing the raids. Reported in: Detroit, Mich. *News*, August 8

*Minneapolis, Minn.* A City Council committee proposed that allegedly obscene movies may be regulated by denying theater licenses to those exhibitors convicted of felonies or morals offenses. In its first draft, the proposal attempted to limit theater licenses to applicants of "good moral character." The vagueness of the qualification apparently prompted the rewrite to the present form. Reported in: Minneapolis, Minn. *Star*, August 17; *Tribune*, August 14

*Cincinnati, Ohio.* At the 50th Convention of the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators, the group called for more effective forms of self-regulation from the motion picture industry. The MPAA code was termed "inadequate." Reported in: Cincinnati, Ohio *Enquirer*, July 23

*Milwaukee, Wis.* Despite a city attorney's opinion that it was unconstitutional, a Common Council committee recommended that the city adopt an ordinance which will force theater owners to submit films to the Milwaukee Motion Picture Commission for review. Valentine J. Wells, executive secretary of the Commission,

said that theater owners not only refused to invite members to special screenings but that two theaters refused to honor a Commission pass. Wells said he told a theater manager, "This is a pass that has been authorized by the city of Milwaukee. It has the official seal of the city of Milwaukee. It is signed by the mayor of Milwaukee." According to Wells, the manager said, "I don't give a damn." Reported in: *Milwaukee, Wis. Journal*, July 28

#### (E) SOUTHERN STATES

*Washington, D.C.* Elizabeth Fisher, editor of *Aphra*, a "revolutionary literary magazine" whose main concern is women's liberation, said that two of three issues of *Aphra* have run into "censorship" problems. The first issue was turned down by a distributor as "too dirty" to handle. The second was refused by a printer who found it "too shocking." Miss Fisher says *Aphra* was rejected because men found some of its ideas humiliating. Reported in: *Syracuse, N.Y. Herald-Journal*, July 12

*Miami Beach, Fla.* At the Miami Dade South campus, censorship of the student paper, *The Catalyst*, has become an issue. Barbara Garfinkle, paper advisor, removed some "editorial art" that showed embracing. She called the work "obscene" and then later added that the art "did not belong in a newspaper." In a second incident, Paul Shea, Sports Editor, used the word "fired" in a story about a varsity coach, and realized afterward that the word was changed for publication. (The *Miami Herald* also reported that the coach was "fired.") A committee has been appointed to mediate the problems. Reported in: *Miami Beach, Fla. Sun*, September 10

*St. Petersburg, Fla.* Scenes depicting the bombing of Hiroshima and Nagasaki were deleted from an NET program film because they were "too gross." Al Lewis, WEDU-TV, said the deleted scenes concerned the destruction of human life by heat and the impact of the explosion. Reported in: *St. Petersburg, Fla. Independent*, August 4

*Tavares, Fla.* Letters have been prepared and approved for mailing to all theaters and newsstands in Lake County requesting volunteer cooperation in policing printed and celluloid "smut." The letters cite complaints which have been directed to the county board about distribution of pornography in the area. Reported in: *Orlando, Fla. Sentinel*, August 11

*Doraville, Ga.* The City Commission set a business license fee of \$25,000 for any movie theater showing restricted, adult-type movies rated X in an effort to keep such films from being shown in the city. Commissioner Herb Farmer said that "when we granted a business license to the Mini Cinema in Grant City it was with the understanding that no restricted films

be shown there. They are now showing a restricted film." Farmer said he had worked very hard to keep pornography and other things that might corrupt young people out of the city and he did not feel it should be allowed to slip in unannounced and have nothing done by the Commission to prevent it. Reported in: *Decatur, Ga. Dekalb New Era*, August 6

*College Park, Md.* A committee of the University of Maryland's Board of Regents held hearings to gather views about its plan to end student fee subsidization of campus newspapers. The plan would place publications and the university radio station under individual non-profit corporations independent of the university. Opponents of the plan say it is a reaction to the printing of what was considered obscene material. Most speakers at the hearing agreed that immediate enactment of the plan would destroy all campus media, including *Argus*, a feature magazine; *Calvert Review*, a literary magazine; *The Terropin*, the yearbook; *Concise Guide*, a magazine giving evaluations of courses offered; *The Diamondback*, student paper; and radio station WMUC. Reported in: *Baltimore, Md. Sun*, August 6

*Memphis, Tenn.* The City Board of Review began a move to create an "advisory board," composed of thousands of citizens, to fight "smut" in Memphis. Members would wear identifying pins and boycott businesses which do not endorse the Board's principles and purposes. Reported in: *Memphis, Tenn. Press-Scimitar*, August 25

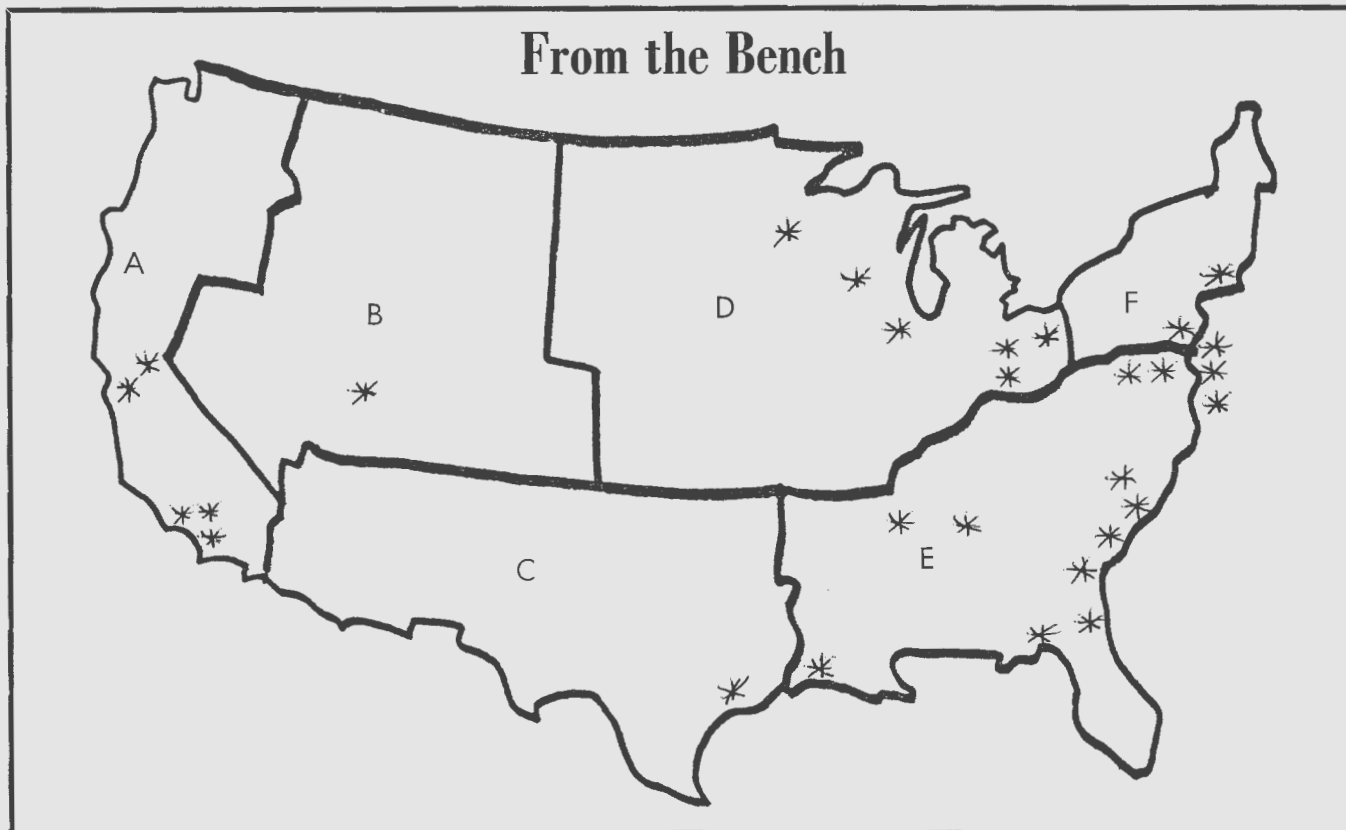
#### (F) NORTH ATLANTIC STATES

*Manchester, N.H.* Four hundred delegates to the National College Editors Conference in Manchester seem to agree that the nation's college newspapers may be faced this fall with major challenges to their right to free expression. Said Stephanie Salter, editor of *Purdue University's Exponents* "It appears college administrators have come to the 'hard hat stage' in dealing with dissent. They are going to get tough to prevent trouble before it gets started." A few days before leaving for the editor's conference, Miss Salter learned that the Purdue administration had "locked her out of her office" for next fall. Reported in: *Philadelphia, Pa. Inquirer*, August 27

What is a minority? The chosen heroes of this earth have been in a minority. There is not a social, political, or religious privilege that was not bought for you by the blood and tears and patient suffering of the minority. It is the minority that have stood in the front of every moral conflict, and achieved all that is noble in the history of the world.

—John B. Gough

## From the Bench



### (A) PACIFIC COAST STATES

*Los Angeles, Ca.* Superior Court Judge Robert H. Patton, ruling in the case of Mrs. Deena P. Metzger, ordered trustees of the Los Angeles Community College District to reinstate her as an English teacher at Valley College. Mrs. Metzger was discharged for a classroom reading of a poem, "Jehovah's Child," that officials considered obscene. Judge Patton said, "It is not enough to decide that the material itself, standing alone, is offensive. It must be used for immoral purposes." Reported in: St. Louis, Mo. *Post-Dispatch*, August 12

*Los Angeles, Ca.* Arthur Kunkin, editor and publisher of the *Los Angeles Free Press*, was found guilty in Superior Court of receiving stolen property. (See *Newsletter on Intellectual Freedom*, September 1970, *Is It Legal?* for details of case.) Shortly after the *Free Press* verdict, the California assembly passed a bill making it a misdemeanor to disclose phone numbers or addresses of identified peace officers without authorization by the officer's employer. Passed 56-2, the bill must also be passed by the Senate and approved by the governor to become law. Mr. Kunkin says he will ask for a new trial; if that fails he will appeal. A "defense fund" for Kunkin has been established. Reported in: Washington, D.C. *Wall Street Journal*, August 13.

*Los Angeles, Ca.* U.S. District Judge David Williams ordered the return of allegedly pornographic materials seized in a raid on a photo reproduction warehouse. Judge Williams said that a prior adversary hearing is required in all cases involving materials possibly protected by the First Amendment. Chief Deputy District Attorney Joseph B. Busch, Jr. called the decision a "classic example of the potential conflict existing under the dual sovereignty concept of state and federal laws." He said his office will appeal to higher courts for clarification of the ruling before returning any of the seized materials. Reported in: Los Angeles, Ca. *Times*, August 15

*Riverside, Ca.* Municipal Court Judge McFarland, ruling in a case against three students responsible for publication of an allegedly obscene picture in the *UCR Highlander*, a student newspaper, declared that the picture was not legally obscene. He dismissed the charges against the students. (See *Newsletter on Intellectual Freedom*, September 1970, p. 83, for details of the case.) Reported in: Riverside, Ca. *Enterprise*, September 4

*Sacramento, Ca.* A three-judge federal court panel composed of Judges O. D. Hamlin, Alfonso J. Zirpoli, and Robert F. Peckham, ruling in the case of David M. Rowe, a junior at Del Mar High School, said that

state laws prohibiting distribution of unauthorized printed matter on school grounds are unconstitutional. The court held that the laws are too vague, overly broad, and unreasonably restrictive. The court emphasized that it did not mean school authorities are without power to control their schools or discipline their students, but they "must show specific and substantial justification in order to limit students' First Amendment rights." Reported in: San Francisco, Ca. *Examiner*, September 5

#### (B) ROCKY MOUNTAIN STATES

*Salt Lake City, Utah.* A three-judge district court, in a decision written by Chief Judge David T. Lewis, upheld Utah's obscenity statute which makes it "unlawful for any person to willfully or knowingly sing or speak an obscene or lewd song, ballad or any other obscene or lewd words in any public place or in the presence of other persons." In so ruling, the court dismissed an appeal by black militant Victor Gordon who is being prosecuted for leading an audience at the University of Utah in shouting "the familiar earthy phrase that is a blunt description of a form of incest." Reported in: *Time*, September 28

#### (C) SOUTHWESTERN STATES

*Austin, Tex.* A three-judge federal panel composed of Judges Homer Thornberry, Jack Roberts, and D. W. Suttle, ruling in a case involving the sale of the underground newspaper *The Rag* on the University of Texas campus, declared that parts of the Regents rules and Regulations dealing with commercial and noncommercial solicitations are unconstitutional. The memorandum opinion legally removes the university ban against distribution of *The Rag* because First Amendment freedoms are not dependent "upon the will of an administrator." Reported in: *Austin, Tex. American*, September 4

#### (D) MIDWESTERN STATES

*Chicago, Ill.* Circuit Court Judge Arthur L. Dunne ruled that the movie *Wide Open Copenhagen* is "obscene when viewed as a whole. It appeals to the prurient interest and goes substantially beyond the normal standards of candor." Patrick A. Tuite, attorney for one of two theater owners, argued that the movie is for adults only and it is up to individual adults to determine if they want to view it. Another hearing will be held at which the Aardvark and Festival theaters may produce witnesses for themselves. Reported in: *Chicago, Ill. Tribune*, August 14

*Minneapolis, Minn.* Hennepin District Judge Tom Bergin upheld a July Municipal Court conviction of Melvin Lebewitz, a theater owner, on charges of exhibiting obscene material (*The Art of Marriage*).

Bergin said the movie is "obscene as a matter of law because it goes substantially beyond the customary limits of candor in description and representation..." He found further that the movie had no redeeming social value. Reported in: *St. Paul, Minn. Dispatch*, August 11

*Minneapolis, Minn.* U.S. District Court Judge Earl Larson issued an injunction to bar city prosecutors and police from seizing any more copies of the movie *Sexual Freedom in Denmark*, and from arresting or threatening to arrest any persons connected with showing the film, and from trespassing at the Empress Theater. The Judge stated that the injunction would not be effective if the theater allowed persons under 21 to see the film, if it "pandered" the sexual aspects of the film in its advertising, or if it forced the film on unwilling viewers. Basing his decision largely on the Supreme Court case of *Stanley v. Georgia*, Judge Larson said that the question was not one of obscenity but whether the city was interfering, by repeated raids, with the First Amendment rights of the theater's owners without a substantial public necessity. Reported in: *Minneapolis, Minn. Star*, August 24

*Cincinnati, Ohio.* Judge David S. Porter, U.S. District Court, refused to require Trans-Media news to supply the City of Cincinnati with a copy of every book, magazine, picture or film it now sells or shows in its three local stores. Porter said the material must be ruled obscene before a clerk can be arrested for selling it. Neither the city nor the state has a definition of obscenity, though both have penalties for persons convicted of selling pornographic materials. Porter asked city officials and the defense attorney to bring into court "some law on what constitutes obscenity." Reported in: *Cincinnati, Ohio Post & Times-Star*, August 15

*Norwalk, Ohio.* A three-judge panel composed of Judges D. Deane McLaughlin, Harvey Straub, and J. Thomas Guernsey, upheld the conviction of a Norwalk news dealer, Robert Summerlen, on a charge of selling an obscene book. Only Judge Guernsey dissented, saying, "... the U.S. Supreme Court has extended the protection of the First and Fourteenth Amendments to equally offensive books." Reported in: *Cleveland, Ohio Catholic Universe Bulletin*, July 31

*Toledo, Ohio.* Common Pleas Court Judge Nicholas Walinski, ruling in a case against Westwood Art Theater, charged with showing an obscene movie (*Without a Stitch*), declared the film is obscene because it appeals to the prurient interest, is without socially redeeming value, and affronts community standards on sex. The ruling permanently enjoins showing of the movie statewide, since the case was

brought on behalf of the residents of the state. Reported in: Toledo, Ohio *Blade*, September 16

*Madison, Wis.* Judge Erwin Zastrow sentenced Mark Knops, editor of the Madison edition of the underground newspaper *Kaleidoscope* to six months in jail for contempt of court. Knops refused to tell a grand jury his source for an article about a group which claims responsibility for recent bombings on the University of Wisconsin campus and in the Madison area. Reported in: Chicago, Ill. *Daily News*, September 4; *Sun-Times*, September 4

#### (E) SOUTHERN STATES

*Mobile, Ala.* U.S. District Judge Virgil Pittman upheld two sections of Mobile's anti-obscenity ordinance and struck down a third which made mere possession of pornographic materials a prosecutable offense. Ruling in the case of Roswell Engstrom, proprietor of a newsstand, the Court cited the U.S. Supreme Court decision in *Stanley v. Georgia* which declared that "mere private possession of obscene matter cannot constitutionally be made a crime." Reported in: *Mobile, Ala. Register*, July 23

*Washington, D.C.* A federal court panel consisting of Judges Harold Levanthal, Carl McGowan, and Barrington Parker, ruled that a city ordinance requiring itinerant magazine vendors to obtain a license while newspaper sellers may hawk at will, in all likelihood, violates the First Amendment. The decision was a victory for the backers of *Tasty Comix*, a 32-page comic book with sociopolitical overtones. Under the overturned ordinance, to obtain a license required potential vendors to submit three photographs, a set of fingerprints and an application which is forwarded to the FBI for a check on criminal records. There is also a fee of six dollars. Reported in: *Washington, D.C. Post*, August 5

*La Plata, Md.* Lawrence Fuchs and Richard A. Jones, Jr. were found guilty in Magistrate's Court of distributing obscene matter. Fuchs was fined \$200 plus court fees and must be on "good behavior" for two years. Jones was put on probation for one year. Reported in: *La Plata, Md. Times-Crescent*, August 20

*New Orleans, La.* Federal District Court Judge Frederick J. R. Heebe continued a restraining order prohibiting the enforcement of a new city ordinance placing a \$10,000 fee on adult book store permits. The restraining order will probably stay in effect until Judge Heebe rules on a suit challenging the constitutionality of the permit fee. Reported in: *New Orleans, La. States Item*, August 31

*Raleigh, N.C.* Don Gary Childs, manager of an "adults only" bookstore, was found guilty in Wake County

District Court on 13 counts of selling obscene magazines. Judge George Bason ordered confiscation of the store's copies of all magazines entered in the trial as evidence. On the question of "redeeming social value" of some of the publications, Judge Bason said, "But the articles (of possible redeeming value) range from nothing to something and are superficially thrown in." Childs, fined \$1,000 and given a suspended sentence of six months in jail, gave notice of appeal. Reported in: *Raleigh, N.C. News & Observer*, August 14

*Columbia, S.C.* Municipal Judge Joe E. Berry, Jr. reaffirmed in writing his previous finding that *I Am Curious (Yellow)* is obscene. He said, "The average member of this community over 18 years of age would find it offensive to his sense of public decency." Charles M. McAlister, a theater manager, was arrested and the film was seized. Reported in: *Columbia, S.C. State*, August 8

*Columbia, S.C.* Judge John Grimball signed an order on August 18 prohibiting the public exhibition of the film *I Am Curious (Yellow)* in Richland and Kershaw Counties until such time as the U.S. Supreme Court holds the film to be constitutionally protected expression or protected for exhibition under certain circumstances. Judge Grimball dismissed obscenity charges against the Cine Art-Theater manager, Charles McAlister. A spokesman said the decision was concurred in by Citizens for Decent Literature and the City of Columbia as being in the best interests of the community and not establishing any precedent for future cases. Reported in: *Columbia, S.C. Record*, August 18

*Memphis, Tenn.* A three-judge panel composed of Judges Harry Phillips, Bailey Brown, and Robert M. McRae, Jr. dismissed a suit brought by Art Theater Guild Inc. seeking to have a portion of Tennessee's obscenity statute declared unconstitutional. The suit arose out of the seizure of the film *Without a Stitch*. The Guild claimed the law was unconstitutional because it failed to require an adversary hearing for argument by both sides prior to seizure. The panel said the theater operators failed to show cause why the complaint should not be dismissed. Reported in: *Memphis, Tenn. Press-Scimitar*, July 26

*Nashville, Tenn.* A federal court panel consisting of Judges Frank Gray, Jr., William E. Miller, and Bert Combs, upheld the constitutionality of Tennessee's anti-obscenity law when it ruled that the film *The Bushwhacker* is obscene. The panel declared that the U.S. Constitution does not protect obscenity under the guise of freedom of speech. Subsequently, Judge Miller was appointed to the U.S. Court of Appeals in Cincinnati, Ohio. Judge Combs resigned his judgeship

to run for governor of Kentucky. Reported in: Knoxville, Tenn. *Journal*, July 21

*Norfolk, Va.* Judge Erwin A. Henry convicted the operator and two employees of the Colonial Theater for "contributing to the delinquency of a minor." The prosecution relied on testimony by a 17-year-old police cadet who said he was not required to show identification to be admitted to the theater, and he saw three films, one not objectionable, two depicting nude men and women in intimate behavior. Police said Virginia law prohibits minors from being admitted to X-rated movies. Fines were \$300 for Frank Blue, theater operator, and \$75 each for his doorman and cashier. Reported in: *Norfolk, Va. Pilot*, July 28

*Richmond, Va.* The Fourth U.S. Circuit Court of Appeals upheld the right of an Army post commander to refuse to provide meeting facilities for anti-Vietnam war discussions and to ban the distribution of underground printed material. Ten enlisted men from the Army base at Fort Jackson, S.C. brought the appeal. Reported in: Philadelphia, Pa. *Inquirer*, September 5

#### (F) NORTH ATLANTIC STATES

*Sussex, Del.* Court of Common Pleas Judge Lawrence C. Elliott dismissed a suit against James Evans, former owner of a theater which showed the film *Motel Confidential*. Judge Elliott ruled the film could not be considered as evidence because it was seized under a search warrant issued solely on the basis of a policeman's opinion that it is obscene. Reported in: *Wilmington, Del. Journal*, August 25

*New York, N.Y.* U.S. District Court Judge Joseph C. Zavatt ordered the Cybertype Corporation to discontinue mailing "sexually provocative and erotically arousing" advertisements to 117 families who complained that the company sent the material despite Post Office efforts to curtail the mailing. Cybertype faces contempt charges if the mailings continue. Reported in: *New York Post*, July 17

*New York, N.Y.* A three-judge federal appeals court composed of Judges Leonard P. Moore, Sterry R. Waterman, and Paul R. Hays overruled a lower court jury verdict and held that the Swedish film *Language of Love* is not obscene and must be released to its owners by Customs officials. Speaking for the court, Judge Moore wrote, "Whether these decisions will bring forth a more enlightened people who have lived long under sex taboos or will cause a moral degradation of the race will be for the historian." Of the movie, he said, "It purports to be an animated *Little Golden Book* of marital relations . . . It may be the *Vulgate Scripture*, the *Popular Mechanics*, of interpersonal relations." Reported in: *New York Times*, September 16

*Trenton, N.J.* Judge George H. Barlow, Federal District Court, ruled that a local governing body cannot require a man to salute the flag as a condition of letting him speak at public meetings. In a case brought by Albert White, who refused to salute the flag and said "with liberty and justice for all" did not apply in Freehold, N.J., Judge Barlow said that to require White to salute the flag before speaking at a public meeting was an infringement on his freedom of speech. Reported in: *New York Times*, September 9

*Providence, R.I.* The State Supreme Court overturned a Superior Court ruling that seven magazines purchased by police at Providence stands were obscene. Writing for the Court, Justice Alfred H. Joslin did not say the publications were free of obscenity; it merely said the state had not proved obscenity. The court said the constitutional issues would have been different had there been evidence of pandering, sale to minors or an obtrusive assault upon privacy. The magazines included *Jay Bird*, *Happenings*, *Candy*, *Taunt*, *Big Boys*, *Nudist*, and *Lesbians Confessions—Case History*. Reported in: *Providence, R.I. Bulletin*, August 17

## Red Flags for Blue Movies?

To meet objections about X- and R- rated previews being shown with general audience films, the National Association of Theater Owners has designed a plan to use colored bands of film preceding coming attractions to alert projectionists and exhibitors. Red would precede R- and X- rated films; green would indicate G- and GP-; a strip of tan would mean it is suitable for all audiences. Reported in *Hartford, Conn. Courant*, August 2

## Postal Law Used

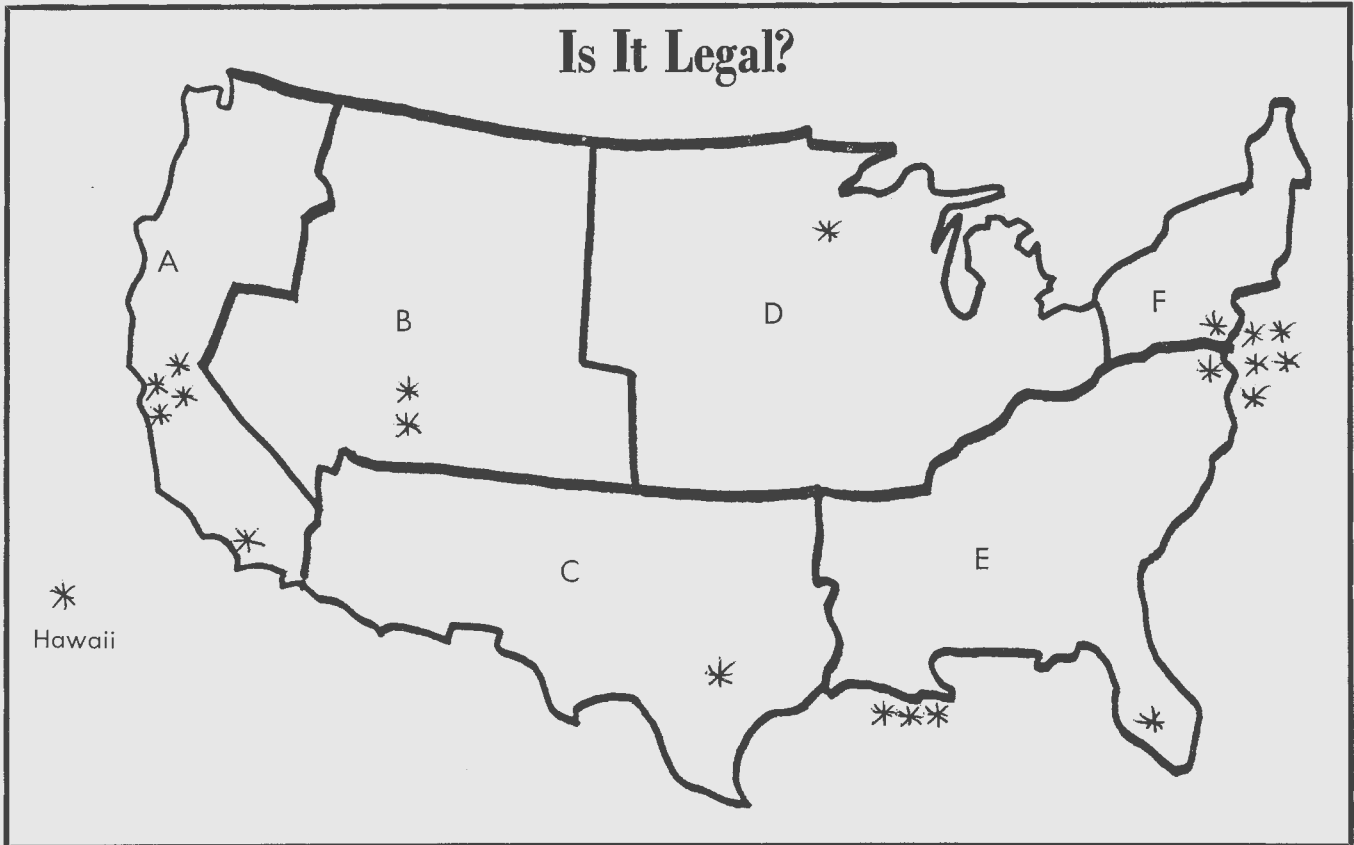
Baltimore Post Office records show that 4,900 persons in the area have filled out Form 2150 requesting their name be removed from what the patron considers to be a mailing list for pornographic materials. Nationwide, a Post Office "position paper" says that some 350,000 prohibitory orders have been issued to sellers of such materials since April 1968 when the anti-pandering act became effective. Reported in: *Baltimore, Md. Sun*, August 26

## Tarnished Nudes?

*Washington, D.C.* The American Sunbathing Association, a nudist organization, voted to reject all "nudist, nudie, Sexy, and girlie" magazines because the publications have "tarnished the image" of true nudists. An ASA spokesman especially berated *Nudism Today*. Reported in: *Washington, D.C. Star*, August 11



## Is It Legal?



### (A) PACIFIC COAST STATES

*Bassett, Ca.* A petition filed by area residents objected to the building of a proposed "adult bookstore" because school buses stop near the store location every day, and children would be exposed to the "sex-oriented" wares. The Los Angeles Public Welfare Commission, considering the store's application for a license, agreed with George Grove, attorney for the bookstore, that the Commission cannot deny the license based upon what the applicant may do since this clearly constitutes prior censorship. The Commission withheld the license, however, pending approval by the Regional Planning Commission of the bookstore's proposed parking facilities. Reported in: *San Gabriel, Ca. Tribune*, July 30

*Fresno, Ca.* *The Daily Collegian*, its editor and staff filed suit in Superior Court July 13 seeking to stop Fresno State College from withholding any funds for the campus newspaper. Acting President Karl L. Falk said he was withholding funds because, in his opinion, the paper had not been living up to adopted standards of journalism. The suit charges Falk's action is a restraint of the newspaper's rights to freedom of speech and press, as well as a hindrance to any criticism of the college administration under the "open forum"

policy instituted when the newspaper was founded in 1922. Reported in: *Fresno, Ca. Bee*, July 14

*Sacramento, Ca.* On July 29 legislation outlawing "live obscene conduct" on stage or in other public places was sent to the floor of the Assembly by its Committee on Criminal Procedure. Author of the bill, John A. Nejedly, said it would apply the same "obscenity" test the U.S. Supreme Court has approved for printed matter. Supported by the offices of the State Attorney General and the District Attorneys of Los Angeles and Orange counties, the bill met no opposition. Reported in: *San Francisco, Ca. Chronicle*, July 30

*San Francisco, Ca.* Bruce B. Briegmann, publisher of the *Bay Guardian*, brought suit in District Court against the San Francisco Newspaper Printing Co., to challenge the recent Newspaper Preservation Act signed into law by President Nixon. The act permits competing newspapers to merge non-editorial operations if one can show "probable danger of financial failure." He charged the *Chronicle* and *Examiner* are making large profits because of their monopoly position. He said his own monthly paper has sustained large losses of advertising revenue because prospective advertisers were forced to spend large sums in the two dailies. Reported in: *Los Angeles, Ca. Times*, July 31

*San Francisco, Ca.* Chief Alfred J. Nelder proposed to the Police Commission a "tough" city ordinance to crack down on "adult" movie houses in San Francisco. His proposal would give police strict licensing control, rigidly regulate advertising displays in front of theaters, and empower the police chief to deny a permit, based on his investigation and a licensing hearing. The proposal would also provide for police inspection after issuance of a permit, authorize the police chief to suspend or revoke a permit, and make it a misdemeanor for anyone to violate the provisions of the proposed ordinance. Reported in: *San Francisco, Ca. Examiner*, August 3

*Honolulu, Hawaii.* Corporation Counsel Paul Devens said he expects Mayor Fasi's anti-obscenity bill to be challenged in court and thinks "an important legal precedent could be set by the case." Devens said, "The real question which the bill poses is whether the innermost feelings of the individual, his pleasures and pursuits, which no one questions his right to have in the sanctity of his own home, can be extended to the movie theater." (See *Is It Legal*, September, for description of Fasi's anti-obscenity bill.) Reported in: *Honolulu, Hawaii Advertiser*, July 10

#### (B) ROCKY MOUNTAIN STATES

*Salt Lake City, Utah.* After weeks of debate, a five-man commission unanimously adopted an anti-obscenity code that provides for the revocation of theater licenses for showing obscene movies. The ordinance also covers books, magazines, photographs, recordings, paintings, objects, and lewd personal behavior. Violators face fines up to \$299 and six months in jail. Reported in: *Salt Lake City, Utah Desert News*, July 14

*Salt Lake City, Utah.* On August 20, a three-judge federal panel composed of Judges David T. Lewis, A. Sherman Christensen, and Luther L. Bohanan, heard arguments supporting and denying the constitutionality of Utah's obscenity statutes. A memorandum decision will be issued when the panel has concluded its deliberations. Reported in: *Salt Lake City, Utah Tribune*, August 21

#### (C) SOUTHWESTERN STATES

*Houston, Tex.* A Houston man, Carlos A. Uccles, under indictment for allegedly mailing pornographic materials has filed suit challenging the constitutionality of U.S. laws prohibiting the mailing of obscene materials. He claims the federal statute is vague, overbroad and provides for cruel and unusual punishment for mailing items which depict all forms of sexuality to desiring consenting adults for their private use in their own homes. He asks for a temporary restrain-

ing order against further prosecution in connection with the charges pending against him. Reported in: *Houston, Tex. Chronicle*, August 13

#### (D) MIDWESTERN STATES

*Minneapolis, Minn.* Judge Earl Larson, U.S. District Court, took under advisement a case concerning the seizure of the film *Sexual Freedom in Denmark* from the Empress Theater. Since late May, police have seized the film three times and made six arrests. Herald Fahringer, attorney for the theater, argued that the continued harassment is a violation of the First Amendment. He asked that the court declare unconstitutional the city obscenity ordinance and a state law authorizing the seizure of obscene materials. Fahringer further argued that an "adversary hearing," required in obscenity cases, was not met by the finding of County Municipal Judge A. Paul Lomman that there was "probably cause" to think the film is obscene. Reported in: *Minneapolis, Minn. Star*, July 24

#### (E) SOUTHERN STATES

*Washington, D.C.* One provision of the postal reform bill passed by Congress on August 7 prohibits the use of the mail for "obscene, lewd, lascivious, indecent, filthy or vile" purposes. The provision permits individuals receiving what they consider obscene mail to notify their local postmaster that they want no part of it. If the sender continues mailing the materials, he is courting a large fine and a prison term. Reported in: *New York News*, August 7

*Washington, D.C.* Leonard Farbstein, (Dem., N.Y.), U.S. House of Representatives, introduced bills to extend the Federal Communications Commission's television "fairness" doctrine to newspapers as well—at least in those cities of 25,000 or more which do not have two separately owned papers. His bills call for punishment of papers who repeatedly violate the doctrine. Farbstein says this would "insure a greater diversity of conflicting views." Reported in: *Chicago, Ill. Tribune*, August 15

*Titusville, Fla.* Judge Roger F. Dykes, Circuit Court, has been requested by Magistrate's Court Judge J. William Woodson to review a new anti-obscenity procedure to determine its legality. Under the new procedure, public notice is given that a book is to be reviewed by the court. Members of the public are invited to argue in the book's favor. If a judge then finds the book obscene, sellers are put on warning, and anyone caught selling can then be prosecuted. Questions raised by the procedure are: does it comply with requirements set out by the Circuit Court and Federal Courts? If the Magistrate's Court, after con-

ducting a public hearing, finds a certain book obscene, can this serve as the basis for an arrest and prosecution of a seller? Reported in: Titusville, Fla. *Star-Advocate*, July 23

*New Orleans, La.* Leander H. Perez, Jr., District Attorney for St. Bernard-Plaquemines, has appealed to the U.S. Supreme Court for a reversal of a federal court ruling that a hearing must be held to determine what are obscene publications prior to the arrest of the distributor. A three-judge Federal Court panel ruled 2-1 on July 14, 1969 that a Louisiana statute pertaining to obscenity is constitutional, but that no arrest or prosecution can be made until there has been a judicial adversary hearing. The Supreme Court has granted a hearing of the appeal and will announce a date. This is the first case of its type to be heard by the high court. Reported in: New Orleans, La. *Times-Picayune*, August 19

*New Orleans, La.* The New Orleans District Attorney's Office filed suit in Civil District Court attempting to close the New Orleans Book Mart on the basis of a padlock statute recently amended by the state legislature to include businesses selling obscene materials. If effective, the suit will force the owner to close the store and prevent him from removing equipment and furniture, and books and magazines from the building for one year. Reported in: New Orleans, La. *States Item*, August 21

*New Orleans, La.* Nine bookstore and newsstand owners and five companies operating bookstores filed suit in federal court seeking a ruling on the Louisiana State law on obscenity. They charge that the law is unconstitutional because its provisions are vague, overbroad, and constitute a prior restraint on freedom of speech; further, that it does not contain the minimum necessary procedural safeguards, and that they leave to the executive and judicial branches too wide a discretion on the application of the law. A three-judge federal panel has been requested. Reported in: New Orleans, La. *Times-Picayune*, August 25

*Baltimore, Md.* The Motion Picture Association of American and the National Association of Theater Owners, in separate *amicus curiae* briefs, urged the U.S. Supreme Court to overrule a Maryland Court of Appeals decision that *I Am Curious (Yellow)* is obscene and to declare the Maryland censorship law unconstitutional. Louis Nizer, counsel for MPAA told the court, "There is no longer any valid constitutional basis for permitting prior restraint insofar as motion pictures are concerned, while at the same time, not permitting prior restraint of any other medium of expression." NATO concurred, and asserted that, "the

association is concerned with governmental control over the distribution and exhibition of films through the use of obscenity laws." However, affirmation of the board of censors was urged in another brief filed by Morality in Media, headed by Commission on Obscenity and Pornography member, Rev. Morton J. Hill. Reported in: Baltimore, Md. *Enterprise*, August 6  
*Baltimore, Md.* Attorney General Francis B. Burch has asked the Maryland Court of Appeals to review a decision in the case of J. Brinton Dillingham. (See *Newsletter on Intellectual Freedom*, September 1970, p. 74 for details of case.) Burch has asked the court to determine if obscenity is protected by the First Amendment of the Constitution, since the publication found not to be obscene in Dillingham's case compares closely with another publication found to be obscene in an earlier case. As to the argument that the publication (an issue of the now defunct *Washington Free Press*) had socially redeeming value, Burch said, "the criticisms consisted of utter prevarications and (were) utterly frivolous and incredible." Reported in: Washington, D.C. *Post*, September 17

#### (F) NORTH ATLANTIC STATES

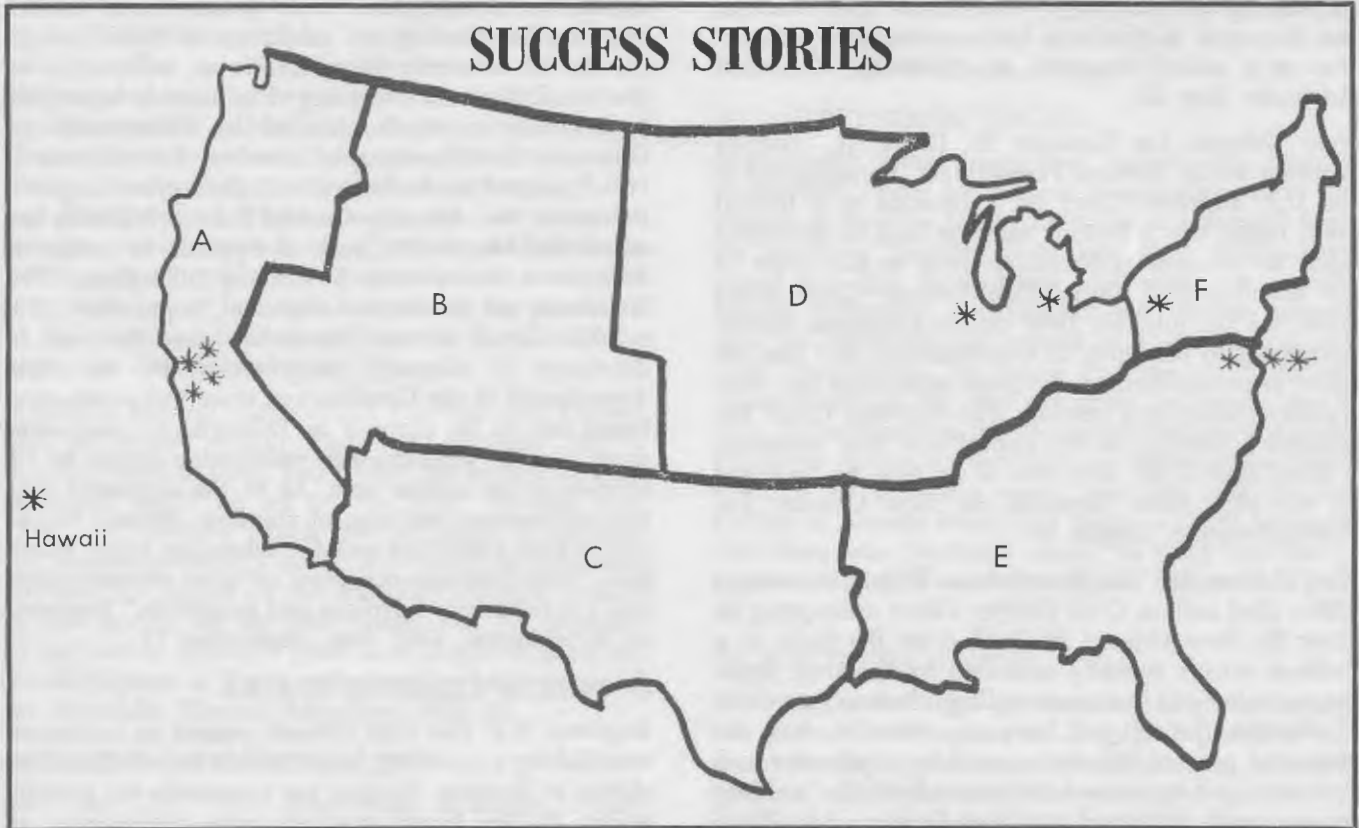
*Bayonne, N.J.* The City Council passed an ordinance establishing a screening board to rule on whether films shown at Bayonne theaters are unsuitable for persons under 18. The board members were unappointed as of September 2. The Bayonne board is modeled after a recently formed Jersey City Motion Picture Classification Board which is currently blocked from taking any actions due to a temporary restraining order issued by the U.S. District Court at the request of fifteen movie distributors and theaters. Reported in: Bayonne, N.J. *Facts*, September 2

*Jersey City, N.J.* Mayor Thomas J. Whelan is proceeding with plans to set up a motion picture classification board. Fifteen film distributors have filed a suit in U.S. District Court to stop the establishment of such a board. Reported in: Jersey City, N.J. *Journal*, July 20

*Newark, N.J.* The New Jersey Legislature's Commission to Study Obscenity and Depravity in the Public Media reached a unanimous decision that there can be provable psychological harm to adolescents from viewing obscene materials. The panel divided closely on pornography's effect on adults, and the question was returned to the legislature unresolved. Reported in: Newark, N.J. *News*, September 2

Loyalty to petrified opinions never yet broke a chain or freed a human soul in this world—and never will.  
—Mark Twain

## SUCCESS STORIES



### (A) PACIFIC COAST STATES

*Sacramento, Ca.* State Assemblyman E. Richard Barnes (Rep., San Diego) unsuccessfully urged the Criminal Procedure Committee to place the Legislature on record in support of federal legislation to limit appellate jurisdiction of the high court in future cases involving convictions in pornography cases. Barnes said the U.S. Supreme Court has destroyed the states' ability to defend themselves and has "turned the smut peddlers loose on America." Three Republican committee members, including chairman Frank Murphy, Jr., did not support Barnes' plea. Reported in: San Francisco, Ca. *Chronicle*, August 6

*Sacramento, Ca.* The California State Senate adopted a resolution proposed by Sen. John F. McCarthy requesting the Federal Communications Commission to conduct hearings in Sacramento and other parts of the state on news media ownership. The resolution states that, "Monopolization of news media in any given geographical area may strike at the foundations of democracy and may threaten the basic concepts of freedom of the press as well as affecting advertising rates." Reported in: Sacramento, Ca. *Union*, August 8

*Sacramento, Ca.* Justice Robert W. Hansen of the Wisconsin Supreme Court, in a speech in Sacramento's

Eagles Hall, said: "There seems to be a growing suggestion that one cure for the unrest and disturbances in our country is to block out the news . . . Once a guy wrote a book called *Mein Kampf*. Nobody bothered to read it, so millions of persons gave their lives later on. Just because no one had read what that Austrian house painter had written." Justice Hansen said a "wide spectrum of our non-governmental organizations," such as clubs, fraternal groups, churches, etc., must form the bedrock of our democratic society by preventing "planned suppression" in any form. Reported in: Sacramento, Ca. *Union*, August 13

*San Francisco, Ca.* Lawyer Melvin M. Belli told a panel at the State Bar Convention that Supreme Court Justice Potter Stewart once said he could not define obscenity but knew it when he saw it. "That isn't good enough," Belli said. "If you can't define something, and you're going to proscribe it, then you violate a basic principle that a man should know with what he is charged." Reported in: San Francisco, Ca. *Chronicle*, September 17

*Honolulu, Hawaii.* The Citizen's Antipornography Committee had planned to picket the Busy B Theater on August 24th, but only one picket showed up. Fourteen *propornography* pickets turned up to

counter-picket. Said Rev. Dell Allen, the representative of CAC, "I think we will have to retreat and regroup." Reported in: Honolulu, Ha. *Star-Bulletin*, August 25

#### (D) MIDWESTERN STATES

*Chicago, Ill.* Benjamin Elkin, principal of the Phillip Rogers grade school where five students published an underground newspaper called *The Eye*, said he had received numerous angry calls from parents. Five hundred copies of *The Eye*, containing stories about a new school intercom system, use of washrooms, and freedom on the stairways, some of them written in popular, earthy vernacular, were sold, making it the most successful, if not the first, underground newspaper published by grade-school children. Elkin said he planned no disciplinary action against the students responsible for the publication. Elkin said the school had no part in the paper's publication, and discipline was a matter of parental responsibility. Reported in: Chicago, Ill. *Daily News*, September 26

*Detroit, Mich.* Mayor Gibbs, in an interview, defended the right of the Black Panther Party to distribute its literature. Gibbs, when asked what he would do about Black Panther leaflets calling for the murder of police officers, said: "It's a free country. They can, under our First Amendment, express themselves freely. Some of their statements are strong, objectionable. I would not use them. You have to ignore them. But they can be expressed because the Constitution as construed by the courts indicates that this is a means of expression that is permissible. And so long as they do it in a peaceful manner, they should be allowed to do it." Reported in: Detroit,

#### (E) SOUTHERN STATES

*Washington, D.C.* Acting on a complaint from a Lackland airman, Senator William Proxmire (D.-Wis.) has demanded an official explanation of why 15 airmen armed with razor blades spent a full day cutting holes in 10,000 copies of the *Tailspinner*, August 7th issue. An unofficial spokesman for the base said that the hole in the base newspaper had been occupied by a "badly cropped" photograph of Maj. Gen. John S. Samuel, Lackland's commander. The spokesman explained it was impossible to reprint the page and, "The only avenue open to us was to cut the picture." In a letter to Air Force Secretary Robert C. Seamans, Proxmire said, "If these facts are accurate, I think this was a violation of freedom of the press and a waste of taxpayer's money." Reported in: Washington, D.C. *Star*, August 17

*College Park, Md.* An allegedly obscene drawing, responsible for the confiscation of 8,000 copies of a freshman handbook and the firing of its editor from

another university job (see *Newsletter on Intellectual Freedom*, September 1970, *Censorship Dateline*), recently amazed university officials by appearing in a manual evaluating the course offerings at the College Park campus. The drawing appeared in an ad paid for by the *Argus*, another student magazine. Dave Bourbon, editor of the *Argus*, said the ad cost \$50.00 and was run "as a protest against the administration's high-handed decision to censor the handbook." Reported in: Baltimore, Md. *Sun*, September 9

#### (F) NORTH ATLANTIC STATES

*Pittsburgh, Pa.* At a meeting of 954 delegates, the American Federation of Teachers approved a resolution favoring a "student bill of rights." The approved bill provides for freedom of speech and expression, including dress and grooming, the wearing of buttons or emblems, or the carrying of picket signs. Also guaranteed are the freedoms to publish underground newspapers and other literature, to assemble, and to petition against public agencies, governing boards, and school administrations. Reported in: Philadelphia, Pa. *Inquirer*, August 20

## Clifton Board Bans 'Sensuous Woman'

In a 5-4 vote, with Joseph P. DeMarco, Board chairman voting to break a tie, the Clifton, New Jersey, Library Board banned the book *Sensuous Woman*, by "J." The book is currently the number one best seller on the *New York Times Book Review* top ten list.

It took two votes for the board to reach its decision. Both votes resulted in ties broken by the chairman. The first vote prohibited *purchase* of the novel with library funds. To counter this move by the Board, Mark Gould, a city resident, came forward and placed a copy of the book on the desk, saying he would donate it to the library. To meet this unexpected situation, the Board then voted to prohibit the book from the library.

The controversy arose when Mayor Ann M. Latteri recently asked the City Council to stop the library from purchasing the book. She was outvoted. The Council declared that it did not want to enter into a censorship question. At the September 24th meeting of the Library Board, Mayor Latteri literally screamed at the board, saying she was "shocked and appalled" that they would even consider the book. She said that even though the Board members personally did not approve of the book, they seemed to think it should be made available to those who wanted it. This apparently disturbed Mayor Latteri.

Mayor Latteri was supported by Councilman Israel Friend, who said, "Anyone who wants to read that smut and filth should pay for it themselves. This psychopathic authoress tells teen-age girls to enjoy sexual intercourse, but warns them to be careful not to become pregnant."

Board member Mrs. Esther Bertoni told the audience that she opposed the book and regretted it had attained such a high position on the best seller list, "But so long as there is a demand for it I think it should be made available." George J. Kulik, another Board member, warned, "The freedom to read is guaranteed by the Constitution. I trust Americans to recognize propaganda and reject obscenities. Some literature is shocking. But then, isn't life?"

Mrs. Anne Greenburg, a Board member, charged that banning the book would bring Clifton back 30 years "to when there was book-burning in Germany. This book has been requested at the library by 32 people. Under normal circumstances this would mean that we would buy four copies of it."

Several speakers declared that the book would "pollute the minds of our youngsters." In rebuttal, Paul Atkinson, 19, told the Board, "Most of the kids in town just don't give a damn about this book. They are too concerned with the real problems facing us. The youth of this town is asking you to do something about the problems here and not worry about a stupid book."

Hillire Geller, assistant library director, complained that he would have to tell patrons that they could not have the book "because the political arm of the city doesn't want it." He said he was opposed to the book, but felt that it should be purchased. Although the audience at the meeting was split on the question, judging from applause, the majority seemed to be substantially in favor of putting the book on the shelves. Reported in: Newark, N.J. *News*, September 25

## "Catcher" Is Best Seller Again

Due to the efforts of Kershaw County Sheriff Hector DeBruhl (see *Censorship Dateline*, September 1970) to rid Camden schools of *Catcher in the Rye*, the book has become a best seller in its 25th year of publication. Margaret Ehrhardt, a librarian with the South Carolina Department of Education, said, "If you want to get a book read, censor it." Another librarian in Camden said, "As fast as I get the book back, someone else wants it." Former mayor Henry Savage, said, "I really think someone ought to give DeBruhl an honorary degree because he shows great respect for the written word. He thinks the written word has more influence than most people do." Reported in: Charlotte, N.C. *Observer*, July 26

## Tulsa Board Restricts Evergreen, Ramparts

The Tulsa, Oklahoma City-County Library Commission voted to allow *Evergreen Review* and *Ramparts Magazine* to remain in the library after a resident, Deno Ladas, demanded they be removed. The two publications will be restricted to use by persons over eighteen.

Ladas said the two magazines "approach sedition besides being pornographic. They are not appropriate for a tax-supported institution." Douglas Fox, Chairman of the Commission, pointed out that to house controversial points of view does not endorse or support them; a library simply offers a wide range of resources, serving the total community without regard to the individual user's background or philosophy. Ladas maintains he is not advocating censorship of the library collection. Reported in: Tulsa, Okla. *Tribune*, August 21; *World*, September 19

## Banned Books; A Review

The third edition of Anne Lyon Haight's *Banned Books* (R. R. Bowker Co., New York, 1970) will leave critics of earlier editions yet unsatisfied because, as a bibliography of censorship activities against specific authors and titles, it remains incomplete. With a chronological list of books banned from 387 B.C. into the 1960's, Miss Haight illustrates the trend of censorship through the years and changes in thought and taste. She apologizes for the incompleteness of the list, explaining that, "Not all that has ever happened is necessarily worth the effort of assembling it."

Additions to the new edition tend to document Miss Haight's observation that, "At this particular time in America, morality is a major issue, and writings that seem to relate to social behavior in ways that offend the majority view are subjected to more or less severe attacks." To support this opinion, the third edition expands notes on *Lady Chatterley's Lover*, the *Bible*, de Sade, Swift, and Marx. It also adds notes to Salinger, Donleavy, Nabokov, Burroughs, and Baldwin, for a total of more than sixty new entries.

As a reference handbook for information about attacks on specific authors and titles, *Banned Books* is interesting but not indispensable. Along with works such as Noel Perrin's *Dr. Bowdler's Legacy*, it offers a springboard for indepth research. Both books are enlightening, but as Miss Haight says, "The definitive work, which might be dreamed of, would be too vast an undertaking for the small yield of important knowl-

edge that it would make available." One could take issue with this assertion because the Office for Intellectual Freedom receives many requests for historical lists of attacks on specific titles. Although *Banned Books* cannot answer these requests completely, it provides a starting point, and its revised bibliography includes works which have more exhaustive bibliographies and give further clues for research. JAH

## Subpoenas and the Press

Addressing the House of Delegates of the American Bar Association in St. Louis, August 10, Attorney General John M. Mitchell issued the following guidelines for Department of Justice use of subpoenas to the news media to produce confidential notes, files, films, and other material:

"(1) The Department of Justice recognizes that compulsory process in some circumstances may have a limiting effect on the exercise of First Amendment rights in determining whether to request issuance of a subpoena to the press; the approach in every case must be to weigh that limiting effect against the public interest to be served in the fair administration of justice.

"(2) The Department of Justice does not consider the press 'an investigative arm of the government.' Therefore, all reasonable attempts should be made to obtain information from nonpress sources before there is any consideration of subpoenaing the press.

"(3) It is the policy of the department to insist that negotiations with the press be attempted in all cases contemplated. These negotiations should attempt to accommodate the interests of the grand jury with the interests of the news media. In these negotiations, where the nature of the investigation permits, the Government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the news media.

"(4) If negotiations fail, no Justice Department official should request, or make any arrangements for, a subpoena to the press without the express authorization of the Attorney General. If a subpoena is obtained under such circumstances without this authorization, the department will—as a matter of course—move to quash the subpoena without prejudice to its rights subsequently to request the subpoena upon the proper authorization.

"(5) In requesting the Attorney General's authorization for a subpoena, the following principles will apply: (a) there should be sufficient reason to believe that a crime has occurred, from disclosures by nonpress sources. The department does not approve of utilizing the press as a springboard for investigations; (b) there should be sufficient reason to believe

that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential or speculative information; (c) the Government should have unsuccessfully attempted to obtain the information from alternative nonpress sources; (d) authorization for requests for subpoenas should normally be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information; (e) great caution should be observed in requesting subpoena authorization by the Attorney General for unpublished information, or where an orthodox First Amendment defense is raised or where a serious claim of confidentiality is alleged; (f) even subpoena authorization requests for publicly disclosed information should be treated with care because, for example, cameramen have recently been subjected to harrassments on the grounds that their photographs will become available to the Government; (g) in any event, subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of demand for documents. These are general rules designed to cover a great majority of cases. It must always be remembered that emergencies and other unusual situations may develop where a subpoena request to the Attorney General may be submitted which does not exactly conform to these guidelines."

The guidelines were apparently designed to alleviate press apprehensions about "dragnet" subpoenas issued by the Department of Justice early this year to acquire information about allegedly subversive groups, particularly the Black Panther Party.

The specific case which aroused the concern of newsmen was that of Earl Caldwell, a New York *Times* reporter, whose confidential notes on interviews with Black Panther leaders were subpoenaed. In San Francisco, U.S. District Judge Alfonso I. Zirpoli, ruling on a motion by Caldwell's attorney to quash the subpoena, held that Caldwell must respond to the subpoena before a federal grand jury, but that he could not be forced to testify on confidential material unless certain conditions prevailed.

In his decision, Judge Zirpoli stated, "When the exercise of the grand jury power of testimonial compulsion as necessary to the effective functioning of the court may impinge upon or repress First Amendment rights of freedom of speech, press, and association, which centuries of experience have found to be indispensable to the survival of a free society, such power shall not be exercised in a manner likely to do

so until there has been a clear showing of a compelling and overriding national interest that cannot be served by alternative means." Judge Zirpoli thus enunciated a federal court protection for the traditionally confidential relationship between a reporter and an informant.

On June 5, however, Caldwell refused to testify before the grand jury and was found guilty of civil contempt, a finding he is now appealing. The defense is also seeking a court order demanding the government reveal whether it subpoenaed Caldwell on the basis of information gained in electronic surveillance of the Panthers.

The need for legally defining the relationship of the reporter and his informant became increasingly clear as use of the subpoena was made by parties other than the Justice Department. In August, the U.S. Court of Appeals in Washington, D.C. blocked a subpoena issued by the Senate Permanent Subcommittee on Investigations, Senator John McClellan, Chairman. In a brief order, the Court indefinitely stayed a subpoena issued to Thomas W. Sanders, editor of a Berkeley, California publication called *Black Politics*, a little-known magazine which has apparently suspended publication, but which called itself an "independent journal whose purpose is to provide a forum for vanguard theories and ideas that deal with currently crucial issues." The subpoena, which ordered Sanders to appear August 5th, sought a wide array of data, but focused on the identity of "George Prosser," pseudonym for the author of several articles in the publication. The Court of Appeals gave no reason for stopping the subpoena, but said it wished to consider the issues raised more fully. The order was signed by Judges J. Skelly Wright and Charles Fahy. Gerald Stern, Sander's lawyer, argued that, since the First Amendment is at stake, a full hearing is necessary to determine whether a "compelling governmental interest" outweighs the constitutional protection of information.

In the case of Black Panthers on trial for murder in New Haven, Connecticut, the subpoena came from the defense rather than the prosecution. Attorneys for the Black Panthers summoned newspaper and television reporters in an attempt to convince the Court that public opinion had been prejudiced. The newsmen were asked to bring clippings, transcripts, videotapes, and any other mentions of the Panthers during the previous year. The demand presented an enormous task, in terms of time and expense, especially for television. Confronted with an estimate of the time such a search would necessitate, the Panthers' attorneys accepted what was readily available and did not press the demand further.

Similar subpoenas for materials have also been issued against the St. Louis *Post-Dispatch* requesting

photographs taken during student disruptions; against the Columbia Broadcasting System for parts of an interview with Lyndon Johnson that were not telecast; and, against the *Wall Street Transcript* for records pertaining to the status of the publisher. In the St. Louis *Post-Dispatch* case, District Court Judge John K. Regan refused to quash the federal grand jury's subpoena, and the decision is on appeal. In the CBS case, no decision is available at this writing. In the *Wall Street Transcript* case, the U.S. Supreme Court has let stand a lower court decision allowing the Securities and Exchange Commission to subpoena the records.

To many newsmen, such efforts by the Department of Justice, the Senate, and other government and private concerns, point up the urgency of establishing a federal law which includes the reasoning originally set out by Judge Zirpoli in the Caldwell case. Seventeen states, including New York, California, Indiana and New Mexico, have enacted such legislation. Attorney General Mitchell said in St. Louis that he would not oppose federal legislation to protect the confidentiality of newsmen's sources. He added, however, that more and more news organizations are covering controversial events and occasionally acquire information that the government is unable to obtain. He implied that, in the absence of state or federal laws, his department will continue to issue subpoenas in those cases described in the guidelines issued.

Attorney General Mitchell's guidelines evoked a variety of reactions from members of the press. The American Society of Newspaper Editors said that the press can undoubtedly live with the Mitchell guidelines if the Department of Justice faithfully adheres to them. The *New York Times* and the *Philadelphia Inquirer* substantially agreed that the guidelines go far toward easing the fears raised by previous "fishing expeditions." Other editors, however, did not agree. The *Miami Herald* objected to the vagueness of the guidelines, saying they are "hedged by such phrases as 'all reasonable attempts' and 'should make clear' and 'the department does not approve of utilizing the press as a springboard for investigations' . . . These same guidelines speak of what the government 'should do,' of 'great caution' necessary, of what 'should normally' be the practice. These broad words leave much to judgment."

The *Boston Globe*, perhaps, offered the best summary of press reaction to the Mitchell guidelines: "This is a point which it is not easy to make to those not in the news gathering business, for it always falsely appears that newsmen, by insisting on their right to freedom from outside controls, especially government control, are demanding privileges not granted to other citizens. What needs to be understood is that newsmen are asking nothing for themselves. What



they seek to preserve, even at the risk of being jailed, is the public's unfettered right to the published facts they dig up in any and all vital matters . . . (Without resistance by newsmen,) . . . (e)nded too would be all disclosures that did not have government's imprimatur. Newsmen would find themselves impressed into service as a secret police agency, and that would be the end of their independence and their usefulness . . ." JAH

## Florida Statute Violates Rights

A federal court panel, consisting of Judges William A. McRae, Jr., Bryan Simpson, and George Young, has sparked a controversy by ruling that Florida's 1961 anti-obscenity statute is unconstitutional because it violates the right of free expression. In a 2-1 decision, Judges McRae and Simpson said in the majority opinion that "contemporary community standards" means a national standard, and that Florida courts construed this requirement wrongly to mean a local or county-wide standard. They also pointed out that the statute wrongfully allows seizure of material before it is found obscene by an adversary hearing before a judge, and further, there is not a built-in appeal provision in the statute.

Judge Young, in a dissenting opinion, said it was unfortunate that the court had not decided the question of whether or not the movie involved (*Vixen*), was obscene. He said, "The majority opinion expresses concern over the finding that the state proceeding chills the rights of *Vixen's* promoters. But, from the record, who can say that such chilling was not justified in the state's efforts to suppress obscenity?"

Attorney-General Earl Faircloth said he will file a petition seeking a rehearing along with a motion to stay the court's order enjoining the State from enforcing the anti-pornography act.

The Court's ruling was also severely criticized by Republican U.S. Senatorial candidate George Balmer who confronted Judge Simpson with the demand, "I want your decision reversed." Judge Simpson said Balmer was entitled to his opinion of the ruling and of the judges who made it, "But I don't want to enter into a dialogue with you or Governor Kirk or with Mr. Faircloth." Balmer, who once led a 200-member, seven-shotgun vigilante group that patrolled the streets of unincorporated West Hollywood, has said he is running for the Senate because of the courts. "Why don't the courts ever rule in favor of the good guys?" he has asked. "I'm going to make those senile old men in the courts reverse their decisions on pornography."

Meanwhile, Norman Keegan of Titusville, head of the Brevard Citizens for Decent Literature, said the impact of the decision is "very prohibitive but only

temporary." His group is optimistic that the panel's decision, now on appeal, will not be executed until a ruling is made on the appeal. "There are two appeal courts left," he said, "the Fifth District Court of Appeals and the U.S. Supreme Court. I imagine it will go to the Supreme Court."

In Coral Gables and Escambia County, new anti-obscenity ordinances were passed to allow continuing prosecutions at the local level. Escambia County Attorney Jack Greenhut cited a letter from Faircloth requesting that the county enact a local ordinance because of the federal court ruling. Summarized from: Jacksonville *Times-Union*, July 25, July 29; Orlando *Sentinel*, July 26; July 27; Jacksonville *Journal*, August 3; Titusville *Star-Advocate*, August 4; Pensacola *Journal*, August 28; Miami *News*, August 28

## National Trends?

Washington, D.C. Attorney General John N. Mitchell feels "very strongly" that Congress should limit the Supreme Court's power to review state laws dealing with obscenity and pornography. He said the "high court has gone beyond what the people of this country want or will take" in its rulings on obscenity cases. In an hour-long appearance before the International Platform Association, he said localities should be allowed to deal with publications they consider obscene on the basis of their "different mores" rather than have the Supreme Court set a single standard. Reported in: Chicago, Ill. *Daily News*, July 29

Washington, D.C. Senator Joseph D. Tydings (D., Md.) called for federal legislation banning the sale of obscene materials to minors. "The Supreme Court has approved of anti-pornography legislation drafted to protect minors," he said. He referred to a similar law in New York that has been held constitutional by the Supreme Court and suggested that national legislation be patterned after it. He called for a ban of mailing, sale in stores or display of films that a community finds are obscene for minors. "I believe that any community can and should protect its youngsters from hard core pornography," he said. Reported in: Baltimore, Md. *Sun*, August 13

Austin, Tex. Senate candidate Lloyd Bentsen advocates a congressional act placing control of obscene movies, books and other publications on the local level. He said, "It makes sense to put intrastate pornographic materials under the jurisdiction of the intrastate courts, thus permitting people on the local and state levels to decide what is and what is not obscene." Jury decisions would be subject to review by state courts, but federal courts would have no jurisdiction over them, under Bentsen's proposal. Reported in: San Antonio, Tex. *Express*, August 6

## Bergen County Outcome

Since our report on the controversy over Jerry Rubin's *Do It* in Indian Hills High School, Oakland, N.J. (See *Newsletter on Intellectual Freedom*, September 1970, p. 77), we have received information concerning the apparent conclusion of the conflict.

According to sources close to the matter, the American Civil Liberties Union instituted proceedings in federal court on behalf of the three English teachers, Stephan Sacco, Audrey Besaw, and John Ianacone. Sacco was fired as a result of his inclusion of *Do It* on a suggested reading list for a senior writing project. Besaw and Ianacone were reprimanded by the Ramapo-Indian Hills Board of Education. The ACLU suit was dropped after the Board of Education conferred with Mr. Sacco, discussing with him grounds other than the book controversy for their refusal to continue his contract. Mr. Sacco decided not to pursue the matter.

Miss Besaw and Mr. Ianacone, having been restored to their positions, decided not to pursue the court case on their own. The Ramapo-Indian Hills Education Association, however, is proceeding with a grievance, the aim of which is to expunge from the two remaining faculty members' records any reprimand, inasmuch as it holds that they conformed to Board policy in the matter. It is anticipated that this agreement will end up in arbitration as per their contract with the Board of Education.

The Office for Intellectual Freedom has procured a copy of the "controversial" reading list used by Mr. Sacco and reproduces it below:

### *Suggested Ideas and Areas*

#### *Novels: Contemporary*

*Soul on Ice*

*Manchild in the Promised Land*

*Do It!*

*Trespass*

*The Fire Next Time*

(Writings of Tom Dooley, Thomas Merton, Dr. Schweitzer)

#### *Novels: "Classics"*

*Of Human Bondage*

*Portrait of the Artist . . .*

*Billy Budd*

*Siddhartha*

*The Bible* (selections)

#### *Films:*

*Easy Rider*

*Midnight Cowboy*

*Sterile Cuckoo*

#### *Drama:*

*Lysistrata*

*Stalag 17*

*Up the Down Staircase*

(Radio, T.V. Drama)

#### *Poetry:*

War/Love/Protest Poems

*Records:* Whitman, D. Thomas, W. Stevens, T. S. Eliot, A. Ginsberg, Langston Hughes, Rod McQueen (sic), Kenneth Patchen, L. Ferlinghetti.

*Music:* (Blank)

## More Freedom for Inmates

In actions similar to those reported in California (see *Newsletter on Intellectual Freedom*, September, 1970), inmates of correctional institutions in Rhode Island and New York are challenging censorship practices and achieving more freedom.

In Providence, R.I., Federal Judge Raymond J. Pettine, ruling in a case brought by inmates awaiting trial, ordered drastic curtailment of prisoner mail censorship. He said that present censorship procedures "are either highly questionable or beyond the legitimate role of prison authorities," and that they violate awaiting-trial prisoners' constitutional guarantees of free speech and protection against unreasonable searches and seizures.

In a 43 page opinion, Judge Pettine ordered: (1) that prison officials may not inspect the contents of any incoming or outgoing letters between inmates and a long list of specified individuals, including federal and state officials, court officers and Rhode Island attorneys; (2) that outgoing mail from prisoners to addresses on their approved correspondence lists, normally limited to seven persons, shall not be opened, read, or inspected; (3) that incoming mail, except letters from specified public officials and attorneys, may be opened and inspected for such contraband as drugs, weapons, and other things which threaten the safety of the prison, and for hard core pornography; and (4) that incoming mail from persons on the prisoners' approved lists "may not be read" during the inspection for contraband or pornography.

Judge Pettine's order restrains prison officials from violating these rules until a three-judge federal panel has heard and decided a class action suit brought last spring by awaiting-trial prisoners who claim that prison rules violate their constitutional rights in many respects. The three-judge panel is scheduled to convene on October 28th.

While Judge Pettine's order is restricted only to mail of prisoners awaiting trial, because it was based on a motion by counsel for that class of inmates, it

raised speculation that the order would be extended to prisoners serving sentences. If this is not achieved by prison administrations voluntarily, then it may be by petition of convicted prisoners, to whom the same findings of fact and conclusions of law presumably would apply.

In nearby New York, the State Civil Liberties Union and Herman Schwartz, professor of law at the State University at Albany, announced that they will jointly begin a systematic effort to change certain conditions, including prison rules denying prisoners access to certain books and publications and regulating letters containing news about the prison, letters to newspapers, and letters that do not "stick to your subject." As examples of possible First Amendment violations, NYCLU and Professor Schwartz pointed out that a New York State prisoner recently was punished for writing in his diary that he did not like the deputy warden, and that prisoners in at least three state prisons are not permitted to read Oscar Lewis's *La Vida*, Marshall McLuhan's *Understanding Media*, and other books by Charles Silberman, Alan Moorehead, and Upton Sinclair.

The NYCLU "prison reform" project, with an initial grant of \$14,500 plans to use about 15 law students and a staff lawyer to develop cases designed "to challenge the kinds of prison conditions that led to the prisoners' revolt recently at Tombs." Summarized from Providence, R.I. *Bulletin*, July 10 and August 24; *Journal*, July 14; *New York Times*, September 3

## Studies and Surveys

Several research studies and opinion surveys completed in the past six months concern the affects of so-called obscene and pornographic publications and assess attitudes of citizens toward fundamental civil liberties:

*University of North Carolina.* Psychological tests, conducted on 32 male college students by Dr. Clifford B. Riefler, University of North Carolina, for the President's Commission on Obscenity and Pornography, show that interest in pornographic material wanes rapidly and men turn to other reading and viewing materials. The students, 21 to 23 years old, were exposed to "hard-core pornography" for three weeks in sessions 90 minutes long, five days a week. During the first week, intense interest in pornography was evident and physiological arousal was frequent. As the days succeeded each other, the men turned more and more quickly to other materials such as "non-obscene" books and magazines. At the conclusion of the experiment, the men reported little or no interest in pornography. None felt the material had caused them anxiety or any psychological problems. Reported in: Vallejo, Calif. *Times-Herald*, May 21

*Wayne State University.* A survey conducted in Detroit, Michigan, and surrounding suburbs last spring for the President's Commission on Obscenity and Pornography shows that erotic pictures and books offend people with strong religious feelings much more than they do non-religious people. The survey, directed by Douglas H. Wallace, a psychologist at Wayne State University, requested more than a thousand participants (primarily white, middle income people with at least one year of college education) to give their opinions of 60 erotic pictures. The pictures ranged from fully-clothed men and women to material the Supreme Court calls "hard-core pornography." Reported in: Baltimore, Md. *Sun*, July 23

*Rutgers University.* Concluding a study of 365 men between the ages of 18 and 30, ranging from Denver jail inmates to black college students and Catholic seminarians, Keith E. Davis, chairman of Rutgers Psychology Department, and George N. Braucht, affiliated with the University of Colorado, said that "In the entire sample, exposure to pornography was significantly related to sexual deviance." The study was submitted to the President's Commission on Obscenity and Pornography. The men surveyed were asked to tell if they had engaged in any of the 10 activities which the researchers established as deviant, ranging from secretly watching a woman undress, to forcing others to have sexual intercourse, to exhibitionism and transvestitism. While the study produced no conclusive evidence of detrimental character change due to viewing pornography, Davis and Braucht said, "In old-fashioned language, his (the interviewee's) sexual inclinations may be warped by a very early significant exposure . . . We found that the relations between exposure to pornography and sexual deviance include a broad spectrum from mildly deviant, high frequencies of heterosexual behavior, to group sex, to sex without love, to homosexuality, rape and male prostitution for those subjects exposed to greater amounts of pornography." Reported in: Washington, D.C. *Post*, September 3

*University of California at Los Angeles.* In research conducted for the President's Commission on Obscenity and Pornography, Dr. Michael J. Goldstein studied convicted sex offenders such as rapists and child molesters, and also studied homosexuals, transsexuals, a group of men who regularly purchase pornography and a control group matched for age and education. Goldstein found that, not only the sex offenders, but also homosexuals, transsexuals and users of pornography reported less frequent exposure to pornography during adolescence than members of the control group did. This is compatible, he said, with the sexual history and attitudes of the offenders, most of whom seemed to come from families in which sex was never discussed. He qualified his conclusions,

however, by saying that his sample of subjects probably did not represent the "large silent majority" who use pornography. Reported in: *New York Times*, September 8

*Veteran's Administration Hospital, Palo Alto, Calif.* Reporting to a conference of the American Psychological Association, Dr. Jay Mann told about a study he conducted involving 83 middle-class couples from the Palo Alto area who had been married at least ten years. They were asked to describe their marital behavior before and after four sessions of viewing erotic films. The films, it was found, produced "no sustained change in behavior." The couples rated the films as only "moderately arousing" and were most often repelled by them. "It seems that after the initial novelty of sampling forbidden fruit wears off," Dr. Mann said, "such films are unlikely to make measurable changes in the established sexual frequencies, behavior, or objects of choices of a group such as the one we studied." Reported in: *New York Times*, September 8.

*Purdue University.* Reporting on an experiment he conducted on 42 married couples, Prof. Donn Byrne said that participants were asked to consider nineteen themes and rate them as to the degree to which they were sexually arousing. One group viewed pictures illustrating the themes, a second group read literary passages on the themes, and the third group was told what the themes were and asked to imagine how these subjects might be portrayed in books or films. The participants who were stimulated solely by their own imaginations reported sexual arousal which averaged twice as great as either of the other two groups. Byrne explained that each of the 42 volunteer couples included at least one Purdue graduate student and was therefore not representative of the total population. Consequently, results must be evaluated with caution. He further reported that both sexes were aroused equally by the materials, and that individuals tended to classify as pornographic those themes which caused disgust, anger, or nausea—not necessarily those which were found to be sexually arousing. Themes dealing with homosexuality, sadism and group sex were most often judged to be pornographic. Reported in Chicago, Ill. *Tribune*, September 13

*New Orleans, La.* A reader survey conducted by the *New Orleans Times-Picayune* asked whether citizens approved or disapproved of the Bill of Rights of the U.S. Constitution. 545 responses were received urging retention of the document as it stands. 203 responses were received urging changes, mostly limiting basic freedoms. 54 responses were received taking no definite position on the question. Reported in: *New Orleans, La. Times-Picayune*, May 24

*Columbia Broadcasting System.* A nation-wide poll taken by CBS News showed that a majority of those

surveyed favored changes in the Bill of Rights to curb individual liberties. 75% said extremist groups should not be permitted to organize demonstrations against the government, even if there is no clear threat of violence. Over 50% would not allow everyone to criticize the government if the criticism were thought to be damaging to the national interest. 55% would not allow newspapers to report some stories considered by the government to be harmful to the national interest. 58% said if a person is found innocent of a crime, but new evidence is uncovered after the trial, he should be tried again. 60% said a suspect should be held in jail until police can get enough evidence to charge him with the crime. Reported in: *New York Times*, April 19. (See *American Libraries*, September 1970, Intellectual Freedom Column, for a more detailed analysis of the New Orleans and CBS surveys.)

*Chicago, Ill.* A recent *Chicago Today* "Question of the Day" asked readers for views on the question of whether obscenity laws should be strengthened or weakened. In two days, 207 responses were received: 146 for stronger laws, 59 for weaker laws; and 2 for the status quo. Reported in: *Chicago Today*, August 13

## Intellectual Freedom International

### Latin America

*Buenos Aires, Argentina.* President Roberto Marcelo Levingston promised his government would respect and preserve freedom of the press. During an informal meeting, he said he recently had lived in the United States where freedom of the press is highly valued. Subsequently, the Argentine Association of Magazine Editors asked Levingston to revoke the government's closure of *Primera Plana*, a weekly newsmagazine closed in August 1969 during the regime of deposed President Onganía for allegedly engaging in a campaign of falsities designed to sow confusion in the country. At the time of the shutdown, *Primera Plana* was Argentina's largest newsmagazine, with a circulation of about 50,000. Reported in: *Washington, D.C. Post*, June 26; *New York Times*, June 28; *Baltimore, Md. News American*, June 28

*La Paz, Bolivia.* An incident in which twenty-five policemen entered the office of a La Paz newspaper and "roughed up" the staff during the week of July 19 is only one in a series of violent repressive measures directed at the Bolivian press in the past few months. On July 9, Horacio Alcazar Penaranda, news editor of *La Presencia*, was kidnapped by a group of young men believed to be army officers, and released a day later. Penaranda was lectured on the

men's political views (which coincided with those of Bolivian President Alfredo Candia) before his release. In June, Elmo Catalan, a Marxist journalist from Chile who was apparently working with Bolivian guerillas, and his wife were found murdered. On March 27, Gonzalo Munoz, correspondent for *The Economist* and *Business Week* was expelled from Bolivia. On March 15, Alfredo Alexander, editor of *Hoy*, and his wife were killed by a bomb thrown into their home. On February 21, the leftist military government decreed that all newspapers would regularly print commentary by employees as well as editors. The law was intended to help the journalists of the extreme left, who dominate the powerful Bolivian Federation of Journalists. Reported in: *New York Times*, July 19

*Quito, Ecuador.* A new administration headed by President Jose Maria Velasco Ibarra has imposed tight censorship over the foreign press and expelled *Time* magazine correspondent, Moiser Garcia. Censors are reported to be especially sensitive to foreign correspondents' reports describing Ibarra's military regime which took power in June. Restrictions, including surveillance over out-going cable dispatches, are described as being heavier than those imposed during the military dictatorship of 1964. Reported in: *Washington, D.C. Post*, June 27; *New York Times*, June 26

#### Europe

*Paris, France.* *Quiet Days in Clichy*, a film about author Henry Miller's life in Paris in the 1930's, was banned by the Cinema Control Commission. Miller said, "It was France which first accepted my work and gave me the courage to carry on. What has happened?" Reported in: *New York Times*, August 15 (In the U.S., a court case released *Quiet Days in Clichy* from its bondage at Customs. The judge ruled that "the film appeals to the normal interests in sex and nudity that the average person has in such matters." *Saturday Review*, September 12.)

*London, Great Britain.* Press officials for Princess Margaret said the August issue of *Ladies Home Journal*, which suggests a rift between the princess and her husband, Anthony Armstrong-Jones, Lord Snowden, will not be distributed in Britain. A New York spokesman for the magazine confirmed the report. Reported in: *Baltimore, Md. Sun*, July 31

*London, Great Britain.* A. P. Herbert, a leader in the fight to lift literary censorship in Britain, is now urging that the common law prohibitions against "indecent" be restored to cover the theater. He explained his apparent reversal with some regret: "My colleagues and I, in 1954, began a worthy struggle for reasonable liberty for honest writing. I am sorry to think that our efforts seem to have ended in a right to have copulation, veraciously, on the public stage." The actions are not obscene or corrupting in the

sense of existing law, he said, but "indecent, offensive, and disgusting." Reported in: *New York Post*, August 27

*Athens, Greece.* The military-backed government has announced incentives to create a new, "self-restricted" press in Greece as an instrument of a "new society." George Georgalas, a government spokesman, said, "We want a press to inform, instruct, cultivate and raise its whole structure, a press that will respect its leaders and respect itself." He said Greece needs a free press, "but a free press that will not use freedom for attacks and bad statements." Reported in: *Chicago, Ill. Tribune*, August 5

*Lisbon, Portugal.* Dr. Francisco Belsameo, publisher of Lisbon's leading afternoon daily, *Diario Popular*, reports that "there is greater freedom of the press now. We report some criticism and even some news that used to be considered dangerous." Summarizing freedom of the press in Portugal under the dictatorship of Marcelo Caetano, successor of Antonio Salazar, Dr. Belsameo expressed optimism. Belsameo, a member of the National Assembly, cannot, however, reveal the contents of a law he is drafting with regard to the regulation of the Portuguese press. Reported in: *Washington, D.C. News*, August 17

*Moscow, U.S.S.R.* Despite strict censorship, a broad range of underground literature is growing in the Soviet Union to fill gaps left by official censors. Called "Samizdat," meaning "self-published," the underground publications circulate in the fashion of chain letters in typewritten carbon copies on thin air mail paper. Included are novels, history, and news. A bi-monthly *Chronicle of Current Events* brings news of political arrests, trials, labor camps' inmates, house searches conducted by security police and of new literary works available in "Samizdat." Reported in: *Chicago, Ill. Tribune*, July 12

#### Middle East

*Cairo, Egypt.* Mohammed Hassanain Heykal, Minister of National Guidance for the United Arab Republic, promised a suspension of all but military censorship for foreign newsmen. Most newsmen covering Arab countries do so from Beirut, Lebanon. Heykal is concerned about improving information and propaganda services to compete with the Israelis. Reported in: *New York Times*, August 13

*Jerusalem, Israel.* Military censorship has been in effect in Israel since the formation of the state in 1948. It is said to concern "only military information affecting the security of the state." Israeli as well as foreign correspondents fall under the regulations. Primarily banned is tactical information, including the size and location of military units, identification of officers, and naming of types of aircraft. Even speeches in the Knesset, or parliament, are not immune from censor-

ship. Reported in: *New York Times*, August 13

*Tel Aviv, Israel.* The Israeli Censorship Board has banned the American movie *Mash* because "it shows an irreverent attitude towards soldiers wounded and killed in battle." Reported in: *Chicago Illinois Sun-Times*, August 9

#### Asia

*Phnom Penh, Cambodia.* On August 26, the Cambodian information ministry announced that the government had lifted censorship of all newspapers. The ministry said the government and the press have a common goal, thus making censorship unnecessary. It said this goal is "to build the country with a republican regime devoted to Khmer (Cambodian) interests." Reported in: *Washington, D.C. Post*, August 27

*Singapore, Federation of Malaysia.* Lee Kuan Yew, Prime Minister of Singapore, has ordered all "long haired entertainers or those wearing hippie garb" banned from television. His edict also directs government clerks, including those who work at post offices, motor vehicle bureaus and customs stations, to delay or to ignore totally those "hippies" who ask for service. Yew believes this policy will help convert Singapore into the "rugged society" he wants it to become. The *Malay Mail* advised its young readers, "if it happens to you, don't blow your top. Look at yourself in the mirror." Reported in: *Chicago, Ill. Sun-Times*, August 9

*Tokyo, Japan.* Prof. Saburo Ienaga, a history teacher at the Tokyo University of Education, is in the midst of a three-year legal battle with the Japanese Education Ministry. Ienaga charges that the long-established system whereby the Education Ministry can approve or disapprove of textbooks for school use violates constitutional guarantees of free speech and publication and constitutes a form of censorship. In July, a Tokyo District Court upheld most of his contentions, but Ienaga expects the Education Ministry to appeal the case all the way to the Japanese Supreme Court. Reported in: *New York Times*, August 6

*Seoul, South Korea.* Early in July, a poet and three journalists went on trial on charges of violating South Korea's anti-Communist law. The charges stemmed from a poem, "Five Bandits," written by Kim Chi-Ha, and published in *Sasang-Gye*, a leading intellectual monthly. The poem, a long satirical description of corruption in high office, was said by the prosecution to have been an attempt to spread doctrines of class struggle in South Korea, and thus indirectly to have praised Communist North Korea. The poem was reprinted in the opposition New Democratic party newspaper. As many copies of the magazine and newspapers as possible were confiscated. Reported in: *Baltimore, Md. Sun*, August 11

*Seoul, South Korea.* An issue of *Newsweek* which contained an article on South Korean civil liberties was a day late in getting to Seoul newsstands because government censors blacked out parts of the article. The censored portion included a discussion of civil liberties which said, "Their press is gagged, mail is steamed open, and members of the opposition are shadowed by security agents." Reported in: *Baltimore, Md. Sun*, August 11

*Bangkok, Thailand.* Nearly all Bangkok newspapers imposed a blackout on coverage of Vice President Agnew's visit to protest a tough press act drafted by the Thai government. The press act would give the police the power to close any newspaper, confiscate its presses and jail its editor for publishing news deemed by the police to be "prejudicial to the good order and peace of the nation." Only the English-language *Bangkok World*, which has American stockholders, opposed the ban and said it would publish news of Agnew's visit. Reported in: *Baltimore, Md. Sun*, August 29

#### Australia

*Melbourne, Australia.* On September 2, Victoria state police filed obscenity charges against Penguin Books, Australian publishers of the American best-seller *Portnoy's Complaint* by Philip Roth. More than 400 copies were seized. Reported in: *New York Times*, September 3

## The "Underground" Press:

Time was in America when newspapers abounded everywhere. They were not, for the most part, mass circulation newspapers; they did not need mass circulations to survive. They were, perhaps, more ideological than commercial, reflecting an almost endless variety of political and social points of view. Conceived by men who had something they wanted to say, they were born easily and died easily. It didn't take much capital in the early days of the Republic to become a publisher; a simple flat-bed printing press and an ability to set type were about all that was required. Indeed, the economic context in which the free press clause of the First Amendment was framed presumed a diversity of editorial opinions, challenging and counteracting each other.

Newspaper publishing in any major city is now a big business enterprise, and competition has become the exception rather than the rule. The established press tends, therefore, to reflect, in greater or lesser degree, an establishment view of contemporary life. And that view is doubtless easily and less effectively challenged than it ought to be. Challenges of a sort have been coming of late, however, from the so-called

"underground" press. The term is applied to newspapers produced somewhat irregularly, usually on a rather inadequate financial foundation, odd in format, irreverent in outlook, self-consciously shocking in style and opposed to almost everything established.

Faithful readers of *The Washington Post* (praised be their name) may not find the *Washington Free Press* or the *Quicksilver Times* or any of the many underground papers currently circulated among GIs—about which *Washington Post* Staff Writer Sanford J. Ungar reported the other day—entirely to their liking. These publications tend to tell more than the average reader wants to know about how to make a Molotov cocktail or how to blow up a bank or how to find a partner for one's pad. And they occasionally deviate, in some slight measure, it must be said, from established standards of good taste.

Nevertheless, the underground papers fulfill an important function—and a function which the First Amendment was contrived to protect. They assail orthodoxy, puncture pomposity, rail at those in power. The risks inherent in having this function discharged capriciously, unfairly, extravagantly and tastelessly—from an orthodox point of view—are far less than the risks inherent in letting such criticism be silenced by official censorship. This, at least, is the theory of the First Amendment, and it is a theory that has so far worked very well for the American people.

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