

newsletter  
on  
**intellectual**  
**freedom**



IFC ALA

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**Coalition  
Statement on  
COP Report**

The recently issued Report of the Federal Commission on Obscenity and Pornography, created by the Congress three years ago, was greeted with criticism based mainly on preconceived premises and personal attacks on commission members.

The organizations that sign this statement deplore this reaction, which contravenes the process of rational discussion through which decisions on public issues should be made in a democracy. We agree with the wise words of Thomas Jefferson: "If the book be false in its facts, disprove them; if false in its reasoning, refute it. But for God's sake, let us hear freely from both sides."

The commission's report represents two years of intensive efforts by dedicated men and women, working under a congressional mandate which instructed them to explore facets of a social issue which disturbs various segments of the national community. They have produced a 646-page report and ten volumes of supporting factual evidence which are an exhaustive treatment of the subject. That in itself is a praise-worthy contribution to public understanding.

But the commission's report is not entitled to automatic acceptance simply because of its thorough study. Some of the undersigned organizations hold different views from the commission and may ultimately reject certain of its recommendations. But, despite our varying views on the question of obscenity, we all agree that the report must receive a full, fair hearing; that its findings and recommendations should be tested in even-tempered dialogue; and that those who debate the report should read it — and deal with its specific findings and recommendations.

The report did not — as critics have erroneously charged — recommend abolition of all laws regulating obscenity. On the contrary, the commission recommended laws to prohibit the distribution of sexually explicit pictorial material to minors, the public display of sexually explicit material, and the mailing of unsolicited advertising for such material. The commission emphasized that adults who do not wish to receive obscene material should be protected from having it thrust upon them against their wishes. In short, the commission did not, as some opponents suggested, recommend opening the floodgates for a wave of obscenity to engulf the public.

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ALA Intellectual Freedom Committee, Chairman, David K. Berninghausen  
(Director, Library School, University of Minnesota)

## Working Within The System

"You may distribute leaflets, newspapers, and other literature adjacent to your school. You are also allowed to distribute such literature on school property 'at specific locations and times designated,' according to the Board of Education's 'Statement of Rights and Responsibilities of Senior High School Students.'" *Student Rights Handbook For New York City, New York Civil Liberties Union, 1970.*

Or so they said. Students from New York City's Washington Irving High School, Jamaica High School, and Junior High School 65 found it is not so. What were they trying to distribute? Would you believe the *Student Rights Handbook for New York City*? Five students and their parents have filed suit in Federal Court in Manhattan accusing four school officials and the Board of Education of refusing to allow distribution of the *Handbook* on school grounds.

Allen H. Levine, director of the NYCLU student rights project, commenting on the incident, said, "The suppression by school officials of free speech is a formula for explosion. If students cannot even peacefully distribute legal information, how can they work within the system?" A good question. And, one that nearly defies answer or resolution when one considers the hodgepodge of judicial opinion, state board of education directives, local board rulings, and principals' interpretations concerning distribution of publications on high school grounds.

The entire question seemed to be settled victoriously last July when a federal district court in Connecticut, ruling in the case of *Eisner vs. Stamford Board of Education*, declared that, "The remedy for today's alienation and disorder among the youth is not *less* but *more* free expression of ideas. Student newspapers are valuable educational tools, and also serve to aid school administrators by providing them with an insight into student thinking and student problems. They are valuable, peaceful channels of student protest which should be encouraged, not suppressed." The district court declared that the school board's regulation of materials violated the right of students to free expression. Accordingly, the court enjoined school officials from enforcing any requirement that students obtain approval before publishing or distributing materials within the Stamford public schools.

Stamford officials, however, appealed the decision to the U. S. Court of Appeals, which has jurisdiction over New York and Vermont, as well as Connecticut. In its decision of March 6, 1971, the appeals court upheld the authority of school officials to censor student publications and printed materials, and it specified procedures for application of such censorship. The court said schools must provide procedures that will clearly tell students what kind of material must be submitted for approval, how it

should be submitted, and what degree of disorder must be expected to result from publication of the material before censorship is justified. The decision also called for prompt review of materials submitted for approval.

Along with the regressive decision came the usual "cautionary advice," which stressed that the procedures should not stifle student criticism of schools, officials, or policies, and should seek to prevent arbitrary, erratic, or unfair censorship. These subjective expletives, while making it clear that — in the court's opinion — "non-arbitrary and fair" censorship does indeed exist, also leave a great deal of latitude in the hands of officials who invariably will be the subjects of materials they are to "censor fairly."

The total effect of the appeals court's opinion is to uphold the authority of school officials to require students to obtain prior approval to distribute publications, while confirming the lower-court decision that the Stamford rule is not specific enough to safeguard students' rights.

The court of appeals decision, while binding only in New York, Vermont, and Connecticut, will undoubtedly have an "advisory" effect on other cases now in progress, such as that filed by parents of students in Montgomery County, Md., where students were threatened with disciplinary action if they continue to distribute mimeographed sheets criticizing the county's censorship rule. Montgomery County is the only county in Maryland that chose to ignore a State Board of Education directive to abolish prior review of materials to be distributed by students. The Montgomery County rule was used last May to ban distribution of New Mobe anti-war literature at Paint Branch High School.

Another suit in progress since December 1970 involves two students at El Camino High school in San Juan, California. Teresa and David Poxon, editors of an off-campus newspaper called *Downbeat*, were denied permission to distribute it on campus by a district principals' group and the San Juan Board of Education. The Poxons filed suit in U. S. District Court, hoping to have provisions of the State Education Code declared unconstitutional. They believe their case will be strengthened by a September 1970 three-judge federal panel decision

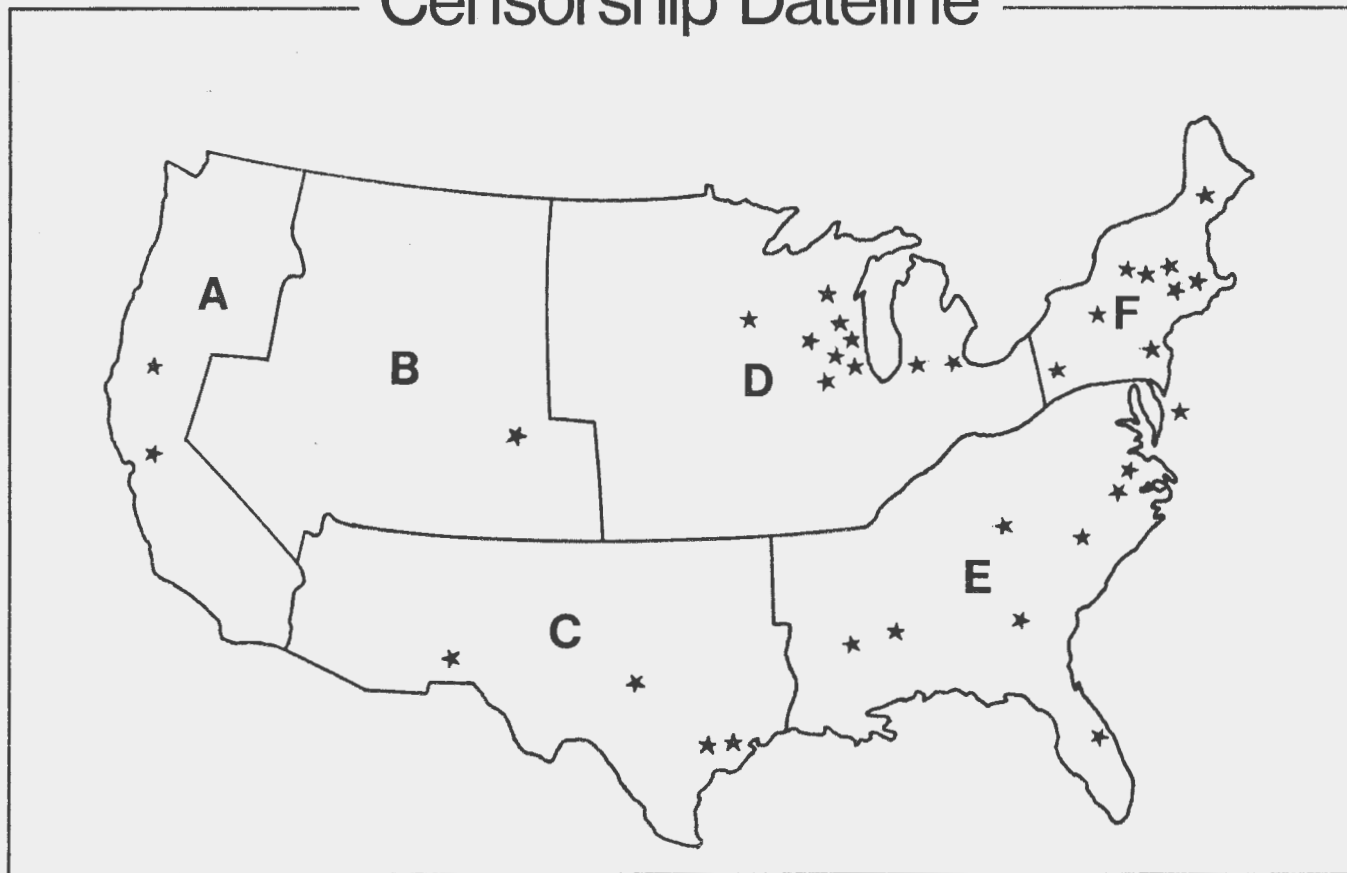
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# Censorship Dateline



## PACIFIC COAST STATES (A)

### Sacramento, Cal.

The Committee Opposing Bigotry and Racism in America (COBRA), reportedly a right-wing group, requested that the State Board of Education prevent the establishment of bilingual classes in California. Calling such classes “the first inroads of communism,” COBRA cited the book *Bitter Harvest* (see page 60) to support their contention. Federally funded bilingual programs are expected to begin on schedule. Reported in: *Richmond Freedom News*, February, 1971.

### Walnut Creek, Cal.

Fortney Stark, president of the Security National Bank, adorned the upper wall of the new bank building with an illuminated peace symbol and vowed to keep the insignia there until the war in Southeast Asia is over. City officials, however, contend that the symbol violates a city ordinance limiting sign area on any one wall of a building to 200 square feet. They also charge that Stark had no building permit to erect the symbol. Stark claims it is a sculpture — a work of art — and thereby exempt from sign regulations. He has received many letters pro-

testing the symbol. Typical of comments contained in the letters are: “The emblem of the devil. . .”; “Pinko leftist”; “I would like to start this letter ‘Dear Traitor.’” Others have commended Stark for his leadership and dedication as a citizen. Reported in: *San Francisco Chronicle*, January 19.

## ROCKY MOUNTAIN STATES (B)

### Greeley, Colo.

An unidentified parent of a Greeley West High School student complained to Allen B. Lamb, a member of the Colorado State Board of Education, that three books with “obscene, filthy language” are on a non-required reading list issued by teacher William Laney. The books are: Hannah Green’s *I Never Promised You A Rose Garden*, Erich Segal’s *Love Story*, and Ken Kersey’s *One Flew Over the Coo-Coo’s Nest*. Lamb reported the matter to Superintendent Kenneth Ripple. Lamb said if Ripple had not been so “cooperative,” he would have moved that the state board of education withhold the school district’s quarterly payment of \$600,000. Laney, teacher of a course of American cultures, said he had not read Kersey’s novel and now agrees with the criticism of

it. According to West Principal James Miller, all three books are recommended by the National Social Studies Association. West's chairman of the social studies department, James Mills, said he considers Lamb's tactics to be a "violation of academic freedom." Ripple has advised Lamb that, if agreement cannot be reached with the principal and teachers, he can file a complaint against Laney in accordance with district policy. In November, 1970, the district board removed Eldridge Cleaver's *Soul on Ice* because they "felt it was not necessary in teaching of races." Reported in: *Greeley Tribune-Republic*, January 20.

## **SOUTHWESTERN STATES (C)**

### **Portales, N. M.**

The Eastern New Mexico University Board of Regents rejected the use of nude models in a proposed advanced art class. Peter Wetzler, head of the art department, explained that the new course for "mature students" was planned as an elective, not required for a degree. "This would be the first time that undraped models would have been used here," he said. Two regents, Mrs. Marjorie Beck, wife of a newspaper publisher, and Donald B. Anderson, an oil company executive, backed the proposal. The opposition was led by Ernest Wheeler, an undertaker, who said the university "doesn't need this," and added he would "favor closing down the art program rather than to have this." Anderson, an artist by avocation, said, "You can't draw the human figure clothed unless you first draw it in the nude." Reported in: *New York Times*, February 7.

### **Houston, Tex.**

The Spring Branch school board will reevaluate eight proposed textbooks at the prompting of a citizens' group which claims the books contain propaganda, biased treatment, and omission of facts. Specifically attacked was *A Global History of Man*, published by Allyn and Bacon, alleged to idealize communism and give short shrift to Christianity. Reported in: *Houston Post*, February 23.

### **Houston, Tex.**

The Houston Independent School District Board of Trustees will read four textbooks before approving them for curriculum inclusion. The books, *American Literature: Themes and Writers*; *Western Literature: Themes and Writers*; *Voices in Literature: Language and Composition*; and, *Man's Cultural Heritage*, were criticized by certain residents of the Houston area for various reasons. Among the complaints were that selections are "heavy on the socio-political approach emphasizing an anti-military, anti-bomb atmosphere" and give little notice to Christianity and early American writers. Reported in: *Houston Tribune*, March 11.

### **La Habra, Tex.**

Kenneth Tanamachi, vice president of Orange Tree Press, Inc., La Habra, charged the *Los Angeles Times* with attempting to halt publication of the book *Bitter Harvest* by John Steinbacher. The *Times* claims it has been damaged because the forty-page bibliography contains six pages of reprints, published without permission, from the *Times*. The book, says Tanamachi, "reveals the machinations of people in high places helping Cesar Chavez rise to power. . . . We will not aid the *Times* in its efforts to confuse and mislead the public in regard to Chavez, not even if Chavez is calling the shots in this matter as far as the *Times* is concerned." Orange Tree Press vows to challenge to the Supreme Court any legal action the *Times* may bring to stop publication of *Bitter Harvest*. Reported in: *Houston Tribune*, January 14.

## **MIDWESTERN STATES (D)**

### **Braceville, Ill.**

Jane Heltne and Jacqueline Wicks were suspended as teachers by the local school board because they used the "Woodstock" sound track album in a sensitivity class for ten- and eleven-year-olds. The students sat on blankets, held hands, and sang along with the album, including the song which begins "Give me an F" and proceeds to spell out "fuck" in a cheer. When asked if the girls were fired for "disorderly conduct," School Board President Forrest Gray said, "Yep, and I'm not going to carry this thing any farther with you." Reported in: *Chicago Daily News*, March 25.

### **Chicago, Ill.**

NET television station WTTW Program Director Robert Fuzy deleted eight minutes from a February 24 broadcast of *The Great American Dream Machine*. The segment, entitled "To Forgive, Divine," featured a scantily clothed couple, lying on a bed, discussing their real and imaginary sexual experiences. Fuzy screened the sketch and called it "an intrusion on the rest of the program" and "obviously an attempt to shock with a dirty joke." [This is the third reported deletion from a WTTW broadcast in the past year. Earlier excisions were a film called *Blue Max*, written by an ex-convict about an ex-convict, which dealt with interracial and homosexual lovemaking; and a filmed interview with Bobby Seale, one of the Chicago conspiracy trial defendants.] Subsequent to criticism from local television critics and newspaper commentators, Fuzy allowed the controversial segment of *The Great American Dream Machine* to be aired. Reported in: *Chicago Tribune*, February 26; March 10.

### **Freeport, Ill.**

William Wiman, head librarian at the Freeport Library, ordered removal of a controversial page in *Sylves-*

ter and the Magic Pebble after a "library patron" complained that the "picture depicting policemen as pigs was offensive." Wiman emphasized that he made the decision on his own before the Illinois Police Association contacted the local police department to urge removal of the book from the library. Due to the removal of the one page, three other pages had to be removed because of their location, but Wiman said elimination of the pages did not "ruin the continuity of the story." Reported in: *Rockford Star*, January 27.

#### **Gurnee, Ill.**

In a letter to the school board, the parents of Raymond Morby, Jr., a Warren Township High School junior, complained about the use of the rock opera, "Jesus Christ Superstar," in an English class. The Morbys called the record "sacrilegious" and "offensive." "The title itself is a mockery," they said. "We are going to defend Jesus Christ all the way." Reported in: *Chicago Daily News*, March 25.

#### **Hinsdale, Ill.**

Members of the Hinsdale High School PTA have asked school administrators to review certain novels on a required reading list for English classes. The PTA's literature subcommittee criticized such books as J.D. Salinger's *Catcher In The Rye*, John Steinbeck's *Grapes of Wrath*, Ernest Hemingway's *Farewell to Arms*, and John Updike's *Rabbit Run* as "pessimistic, morbid, and depressing." The group asked to have more books with "positive, optimistic, uplifting standpoints." *Rabbit Run* has already been dropped from the reading list. Reported in: *Chicago Daily News*, March 25.

#### **Naperville, Ill.**

A citizens' group called The Admiral Rickover Parents and Taxpayers Association for Improved Education has initiated a campaign against J. D. Salinger's *Catcher In The Rye*, Terry Southern's *Candy*, and works by other authors such as William Faulkner and Herman Hesse. The group suggests that books "offensive to good taste or contrary to acceptable and ethical standards of the community or an individual parent" should be optional reading only at Naperville High School. Reported in: *Chicago Daily News*, March 25.

#### **Cedar Falls, Ia.**

After receiving complaints from the parents of a seventh grader that it is a "dirty book," School Superintendent E. D. Archambault removed *The Me Nobody Knows: Children's Voices from the Ghetto*, edited by Stephen M. Joseph, from the Holmes Junior High School Library. Said Robert Owen, whose daughter copied parts of the book and brought them home, "I don't want to raise a big issue with the school system about this particular incident, but I am interested in having the people who are approving these books stop approving them." Reportedly, the book was purchased on the strength of a

"glowing" review in *School Library Journal*. The assistant school superintendent assured Owen that school librarians will begin screening books more carefully. "Something like this really shakes the librarians up," he said. Reported in: *Waterloo Courier*, February 21.

#### **Kalamazoo, Mich.**

A group of citizens has requested removal from school libraries of Joan Baez's autobiography, *Daybreak*, because it is "dangerously obscene." According to Ralph N. Miller, chairman of the area ACLU branch, the only "obscenity" in the book is a four-letter word used in an anecdote whose point is that the child using the word does not understand what it means. Miller asked the school board to make it clear that it will not let self-appointed groups of censors dictate the content of libraries. He concluded that an effort is being made to censor school library materials for political reasons. Reported in: *Kalamazoo Gazette*, February 10.

#### **Toledo, Ohio**

Toledo University Professor Randolph C. Downes, author of the recently published biography, *The Rise of Warren Gamaliel Harding, 1865-1920*, bitterly accused the late President's heirs of censoring his manuscript. The major deletion were references to Harding's well-publicized love affairs with Nan Britton, whose illegitimate daughter he sired in 1920, and Mrs. Carrie Phillips. The Harding family, under the common law of copyright, claims exclusive rights to letters and other papers of the late President. Dr. George C. Harding of Columbus, Ohio, said, "It's absolutely untrue that we censored his book. It was simply told to him that unless certain changes were made it wasn't going to be approved." Downes, who is 69, has worked on the book for fifteen years. Reported in: *Dayton Journal Herald*, February 1.

#### **Menominee Falls, Wis.**

At the request of a group of parents, the school board discussed the inclusion of the novel, *The Fixer*, by Bernard Malamud, in a junior literature course. The parents' group urged that the book be removed because of its offensive language. A committee was appointed to review the book. Mrs. James Fleck, representing the parents group, was requested to complete a complaint form recommended by the National Council of Teachers of English. Reported in: *Menominee Falls News*, Feb. 4.

## **SOUTHERN STATES (E)**

#### **North Little Rock, Ark.**

Mrs. Pat O'Bannon, head librarian, in an interview with *Democrat* staff writer Lynda Zimmer, said she has worked thirteen years for the library and that book censorship has always been in effect. Mrs. O'Bannon said that any adult's request that a book be taken off the public shelves was honored. Medical and sex education

manuals are automatically placed on the "censorship" shelf. "They are something we might not want our teen-aged daughter or son to see right now," Mrs. O'Bannon explained. Typical titles on the present restricted shelf are *The Sensuous Woman*, *Human Sexual Inadequacy*, and *Homosexuality in America*. Reported in: *Little Rock Democrat*, February 3.

#### **Washington, D.C.**

Three congressmen asked the Secretary of the Army to investigate treatment of Lt. Louis P. Font, a West Point graduate who asked for conscientious objector status because of his beliefs about the war in Southeast Asia. Reps. Bella S. Abzug (D.-N.Y.), Ronald V. Dellums (D.-Cal.), and Parren J. Mitchell (D.-Md.) requested the investigation. Mrs. Abzug criticized the Army's "inability to cope with the truth — except by the use of reckless suppression." Mitchell said, "I am apprehensive that [Font's] unpopular views played a part in determining the Army to bring charges against the lieutenant." On January 21, Font was arrested and later charged with five violations, such as entering a command building without written permission. His superiors earlier restricted his movements and ordered him to stop talking to the press. Reported in: *Washington Post*, February 4.

#### **Boca Raton, Fla.**

Florida Atlantic University President Kenneth R. Williams threw out a student and faculty committee's recommendation that student publications be free of "any form of censorship" and set up his own guidelines. The Student Publications Committee recommended that student editors be free to "follow their own good taste and observe all the laws that govern published material." Williams contends that "since the university is legally responsible for what appears in its publications, it must exercise some degree of supervision over them." In related action, Williams refused to allow publication of a student literary magazine and prohibited the student senate from discussing the matter. Reported in: *Boca Raton News*, Feb. 18; 21.

#### **Atlanta, Ga.**

According to staff member Terry Franklin of the radical underground paper, *The Great Speckled Bird*, Georgia state officials barred the State Library for the Blind from sending out tapes of the weekly newspaper to blind people around the state. Franklin says the *Bird* staff has taken over the mailing at its own cost. Reported in: *Avante Garde*, Summer 1971.

#### **Rockville, Md.**

About 350 of the 1,900 students at Robert E. Peary High School boycotted classes on February 25 and marched on the Montgomery County board of education headquarters to protest action by their principal, Fred L. Dunn, Jr., which prohibits several controversial speakers

from appearing at the school. Those speakers banned by Dunn included three members of the National Student Mobilization to End the War in Vietnam, and representatives from women's liberation, pro-abortion, and gun-control groups. Dunn acknowledged that he imposes strict control over the types of speakers invited to the school. He said a speaker from Students for A Democratic Society "got pretty far out and used a lot of four-letter words" at a similar affair last year. Reported in: *Washington Post*, February 26.

#### **Starkville, Miss.**

The controversial content of Mississippi State University's *Reflector* resulted in impeachment and removal by the student senate of the editor, Grady Thurman. One cause of the controversy was a supposedly offensive song from *Hair* reprinted in the paper. The required two-thirds of the senate signed a petition requesting impeachment of Thurman for the manner in which he edited the *Reflector*. The impeachment hearing resulted in a 19 to 8 vote for Thurman's removal. In related action, a student referendum to determine the fate of the newspaper resulted in a 2,027 to 1,489 vote to remove Thurman. Thurman says he will appeal his removal to the U. S. District Court in Oxford. Reported in: *Memphis Commercial Appeal*, March 5.

#### **Chapel Hill, N. C.**

Having as its ultimate objective the permanent withdrawal of all pornography in Chapel Hill, a group called Aroused Parents and Grandparents Committee for the Elimination of Pornography (APGCEP) announced its formation and plans of attack. (See p. 78 for further developments.) Reported in: *Chapel Hill Weekly*, December 29.

#### **Knoxville, Tenn.**

A scheduled showing of the film *Ulysses*, based on the novel by James Joyce, was cancelled at the University of Tennessee after Dr. Paul Sloper, head of the speech and theater department, reviewed the film and objected to the sexual content of certain portions. The novel is required reading in some campus English classes. Cancellation of the film prompted James Swindell, director of films for University Theaters, to submit a letter of resignation. He said he will remain only if allowed to select and schedule films he sees fit to show. Dr. Sloper announced formation of a faculty-student program committee to bear future responsibility for selecting and scheduling of films to be shown. Reported in: *Knoxville Journal*, February 3.

### **NORTH ATLANTIC STATES (F)**

#### **Ridgefield, Conn.**

Twelve books have been removed from classrooms and libraries in the city junior and senior high schools following complaints from "concerned parents" and a

group calling itself the Ridgefield Taxpayers League. The books, used in English and social studies classes, are primarily anthologies dealing with controversial issues such as dissent, civil rights, religion, and women's rights. Contributing authors range from Malcolm X to George Wallace to Carl Sandburg. The Ridgefield Teachers' Association, with the support of the East Ridge Junior High School PTA, objects to removal of the books. Reported in: *Middletown (N.Y.) Times Herald-Record*, February 25.

#### **Portland, Me.**

The Danforth street and West Side neighborhood centers have banned distribution of *Shout*, Portland's Model Cities newspaper. According to Neal Chapman, a West Side community organizer, "*Shout* is merely an organ of the Model Cities office down in city hall." *Shout's* editor, John Talbot, says the bi-weekly paper "is the scapegoat for a lot of things that people don't like about the Model Cities program." Reported in: *Portland Express*, March 5.

#### **Bergen, N. J.**

An exhibit of abstract nudes in black, white, and gray on a blue background, prepared for a shopping center display at Bergen Mall, were blacked out by order of the mall's manager, David DeGhetto. The nudes were created by Richard Esposito and John Myshkoff, art majors at Fairleigh Dickinson University. Said DeGhetto, "The nudes might have been shown in an art museum but didn't belong in a shopping center. Promoting culture isn't our concern here. Our business is retailing, getting people in for the merchants to make money." Prof. Alfred W. Clark of Dickinson's fine arts department commented, "These are the kind of people who would put jockey shorts on the Michelangelo David." Reported in: *New York Post*, March 18.

#### **Albany, N. Y.**

The State Assembly passed a resolution asking Gov. Rockefeller to proclaim an "Anti-Smut Day." The roll-call vote was 124 to 18. Only one Republican assemblyman, J. Edward Meyer, opposed the resolution. Meyer called it "pontificating" and the "wrong approach." Reported in: *New York News*, February 2.

#### **Averill Park, N. Y.**

After several weeks of controversy concerning certain books used in the secondary school curriculum, the school board adopted a policy stating that no materials of "sound factual authority" may be "prescribed for or rejected from programs because of partisan doctrinal approval or disapproval." A parents' group called the School Improvement Association had urged that the school district drop the use of some books because of their religious or political viewpoints. A petition, sponsored by the group, garnered only 22 signatures, while a counter-petition urging adoption of the policy elicited

300 signatures. [The phrase "sound factual authority" was deleted from the *Library Bill of Rights* in a 1967 amendment by ALA Council. Ed.] Reported in: *Albany Times Union*, February 11.

#### **Binghamton, N. Y.**

George R. Dunham, general manager of WNBC-TV, previewed an episode of the CBS series, *All In The Family*, dealing with homosexuality, and decided not to air the segment. Reportedly, the unaired program was an attempt to satirize bigotry concerning attitudes toward homosexuals. Reported in: *Binghamton Sun-Bulletin*, February 23.

#### **New York, N. Y.**

Stating that commercial use of words such as "liberation" and "revolutionary" demeans the causes they represent, editors of underground newspapers agreed not to accept advertisements using such language. Robert England, president of Manhattan's Media A, a firm that sells space for most undergrounds, said "Co-opting the language shows a lack of creativity." Reported in: *Time*, March 8.

#### **West Seneca, N. Y.**

In a four-to-two vote, the school board banned the use of Mario Puzzo's *The Godfather* in high school English classes. A citizen's advisory committee has been established to review the book and the board's action. Reported in: *Buffalo News*, January 13.

#### **Pittsburgh, Pa.**

The Pittsburgh chapter of Sigma Delta Chi, the professional journalistic society, has authorized its Freedom of Information Committee to serve as "watchdog" for censorship in the district. The move came after an incident at Penn State University resulted in the suspension of Editor Rob McHugh and Reporter Ron Norlund from the school's newspaper. The suspensions were precipitated by Norlund's expulsion from a Black Student Union meeting. Later, he overheard and wrote about the group's alleged plans to use "revolutionary tactics" to upstage and embarrass the Penn State administration. McHugh and Norlund's suspension was based on the grounds that Norlund used "unethical" means to obtain the story. Sigma Delta Chi, in a resolution, urged Penn State administrators to revoke the suspensions and remove from all transcripts any record of punitive actions taken; admonish the Black Student Union for using the reporter as a scapegoat to deter criticism; and firmly establish policies upholding the journalist's right to pursue and publish the truth. Reported in: *Pittsburgh Press*, January 20.

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"Censorship, like charity should begin at home; but unlike charity, it should end there."

— Clare Booth Luce

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Working . . . (from page 58)

in San Francisco which declared portions of the code to be "prohibitions" rather than "regulations." (*Rowe, Zelter vs. Campbell Union High School District.*)

Adding to the confusion on a national basis is a recent administrative decision from the New Jersey Board of Education. The board considered a case involving *The Coalminer*, distributed by students at Newark's Livingston High School. School Principal Julius C. Bernstein banned the publication, calling it "obscene and scurrilous." He said, even if the paper were not so reprehensible, he would have banned it under an unwritten school policy prohibiting distribution of "unauthorized" publications. State Education Commissioner Carl Marburger, however, ruled in favor of *The Coalminer* and said local boards must establish formal guidelines regulating publication and distribution of "printed materials protected by constitutional guarantee." On March 4, Marburger's decision was upheld by an 11 to 1 vote of the State Board of Education.

Similar incidents have yielded a variety of results over the past year in Milpitas, Cal., White Plains, N.Y., North Adams and Haverhill, Mass., Oyster River, N.H., Chapel Hill, S.C., and Urbana, Ill. The U.S. District Courts' decisions in the Stamford and San Francisco cases seemed to indicate a trend toward responsible freedom for students, as expressed in the National Association of Secondary School Principals' publication, *The Reasonable Exercise of Authority*: "School-sponsored publications . . . should be as free as other newspapers in the community to report the news and editorialize . . . non-school-sponsored papers and other publications, including an 'underground press,' should not be prohibited, assuming that they, too, observe the normal rules for responsible journalism." The appeals court decision in the Stamford case casts a shadow over the apparent progressiveness of the lower-court decisions and tends toward more confusion of the national picture. JAH

## Cool, Clear Logic

The *Richmond News Leader* recently reported two judicial decisions involving pornography and obscenity legislation. With what the *News Leader* termed "unstoppable logic," a judge in New Orleans acquitted a man charged with stealing ten "nude" magazines from an adult bookstore. The judge voided the charges on the grounds that "you can't steal that which has no value." The same non-logic applied in an Atlanta case involving another man charged with stealing "pornography of the worst kind." The Atlanta judge reasoned that pornography is worthless and that stealing something that is worthless cannot be classified as larceny, petty or grand. Case dismissed! Reported in: *Richmond News Leader*, January 20.

## Our Federalism

### or How The Supreme Court Learned To Do Nothing And Still Do Too Much

"Our Federalism," or less euphemistically, "States' Rights," has become the theme of the U. S. Supreme Court under Chief Justice Warren Burger. In what may be, collectively, a monumental "nondecision," the court voided actions taken by lower-level federal courts in eight cases involving questions of constitutionality of state laws and local ordinances.

Since 1965, federal district courts of appeal have felt relatively free to hear appeals from persons who claim they are being prosecuted under state and local laws which they believe are unconstitutional. In simple terms, if the federal court ruled that the state or local laws were, indeed, unconstitutional, it could then issue an injunction barring further prosecution under the voided laws. In this manner, the person charged under the unconstitutional law was allowed his rights without the time-consuming and financially burdensome process of taking the case all the way through the state supreme court before being able to appeal to a federal court.

In February, the U. S. Supreme Court voided the federal court intervention in eight cases and returned the cases to the state judiciary systems for completion. It made clear that its new stance is to direct federal judges to stop issuing injunctions against state prosecutions when defendants claim protection of the First Amendment. Except in unusual cases where immediate injury will result, federal judges may no longer interfere with criminal proceedings in state courts. Justice Black said that even "irreparable injury" would not warrant intervention unless it were both "great and immediate." The court rejected the argument that people should not have to undergo expensive and burdensome criminal trials if a federal judge can see quickly that the criminal law is unconstitutional.

In the following cases, the court dealt with appeals concerning First Amendment issues.

#### *Boston I Am Curious (Yellow) Case*

The court ruled that federal intervention was unwarranted in the case, thereby reversing a lower-court decision which had blocked a second prosecution, on obscenity charges, of the distributor of *I Am Curious (Yellow)* in Boston. Reported in: *Washington Post*, February 24.

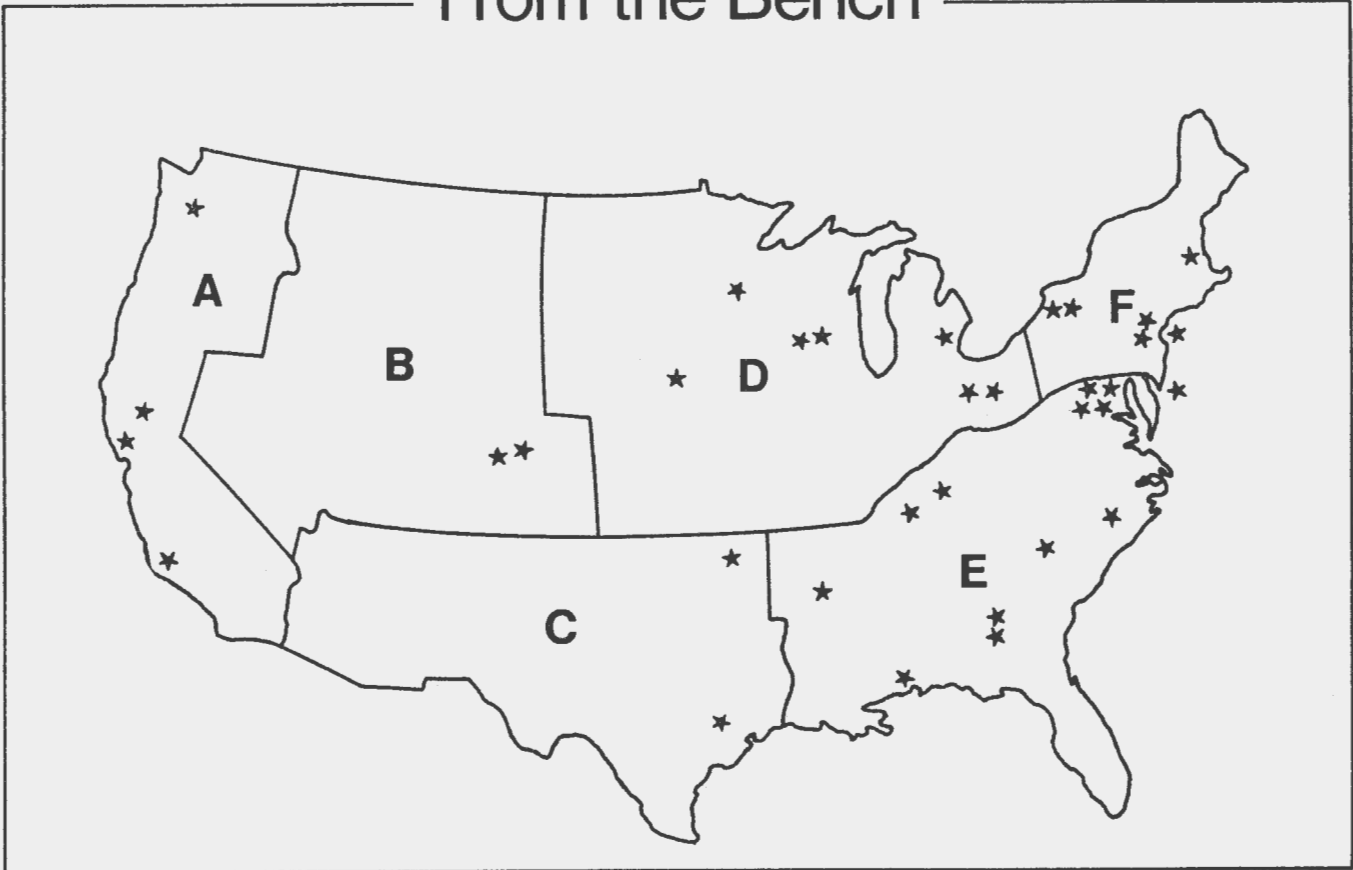
#### *John Harris Case*

Again ruling that the lower federal court's intervention was unwarranted, the court struck down a decision blocking the trial of John Harris, Jr., accused of distributing "subversive literature." Reported in: *Washington Post*, February 24.

(Continued on page 70)



# From the Bench



## PACIFIC COAST STATES (A)

### Los Angeles, Cal.

U. S. District Court Judge E. Avery Crary, in a suit filed on behalf of several mail-order distributors and individuals wishing to receive their mailings, temporarily restrained the U. S. Post Office from enforcing a new federal law by which persons may block the receipt of sexually oriented material in the mail. The judge said, however, that the Post Office may continue to receive applications from those who wish not to receive the mail. Plaintiffs contend the law is "arbitrary, capricious, unreasonable, confiscatory, and an impermissible prior restraint on expression." Judge Crary said it appeared that the statute "may have a chilling effect upon the exercise of freedom of speech and press." Reported in: *Washington Post*, February 13.

### Sacramento, Cal.

In a 4 to 3 decision, the California State Supreme Court upheld the state's right to limit commercial distribution of obscene material, even when it is intended for private use by adults. In so ruling, the court affirmed the conviction of Milton Lueros, operator of World Wide

News, for publishing and distributing four books: *Seed of the Beast*, *Queer Daddy*, *The Experimenters*, and *Just for Kicks*. The three-judge minority opinion, however, contended that *Stanley vs. Georgia* effectively prohibits states from prosecuting distribution of obscene materials intended for use by adults in private. Reported in: *Los Angeles Times*, February 19.

### San Francisco, Cal.

Municipal Judge S. Lee Vavuris upheld a jury verdict that the film *Animal Lover* is obscene. The film features a Danish farm girl having intercourse with a dog, a stallion, and a boar. The defense attorney will appeal the conviction of theater operator Jackie Simpson on the grounds there was judicial error by Judge Vavuris. Reported in: *San Francisco Examiner*, January 15.

### Seattle, Wash.

Holding that the films in question do not constitute hard-core pornography, Justice Court Judge Janice Niemi dismissed nine counts of selling and exhibiting obscene motion pictures against Albert Duane. "There is nothing in them [the films] to indicate that this form of sexually explicit motion picture is substantially different from those considered in a series of cases reversed by the Su-

preme Court," Judge Niemi said in a memorandum decision. She found that juveniles were prohibited from Duane's store and there was no pandering to an unwilling public in the form of window displays or other enticements to enter the establishment. The day after the court's decision, police chief George Tielsch dissolved his pornography squad, saying "It makes little sense to me to engage in a fight of futility." Reported in: *Seattle Times*, February 1; 3.

## ROCKY MOUNTAIN STATES (B)

### Denver, Colo.

A three-judge federal panel, composed of Judges Alfred A. Arraj, Delmas Hill, and William E. Doyle, ruled that newspapers have the right to reject advertising "so long as the refusal has a reasonable basis." The suit was brought against the *Denver Post* and *Rocky Mountain News* by Resident Participation of Denver, Inc., and No Odor for Denver, two groups concerned about environmental pollution. The groups wanted to advertise a boycott against a food corporation planning to construct a rendering plant to process animal products in North Denver. The newspapers argued that the proposed ad would violate the state's anti-boycott law. Reported in: *Denver Post*, February 9.

### Denver, Colo.

Federal Judge Alfred A. Arraj ordered reinstatement of Dorothy Trujillo as managing editor of the Southern Colorado State College newspaper, a position she lost when the newspaper published items critical of the college administration. Judge Arraj said, "The state is not necessarily the unlettered master of all it creates. Having established a particular forum for expression, officials may not then place limitations upon the use of that forum which interfere with protected speech and are not justified by an overriding state interest." Reported in: *Washington Post*, February 13.

## SOUTHWESTERN STATES (C)

### Tulsa, Okla.

Municipal Court Judge Tom Crewson, ruling in a case involving Terry's Used Book Store, found that five local ordinances regulating obscene materials are unconstitutional. Judge Crewson said that the ordinances allow confiscation of materials without benefit of an adversary hearing and allow confiscated materials to be destroyed before determination of obscenity. Reported in: *Tulsa World*, January 23.

### Houston, Tex.

Attorneys for Paul Kitchen, suspended from Waltrip High School for selling an underground newspaper, *Space City!* (see March 1971 *Newsletter*, p. 40), claim

that the allegedly obscene words in the newspaper also appear in novels available through school libraries or school bookstores. Mario Puzo's *The Godfather* and Erich Segal's *Love Story* were cited as examples. Gordon M. Cotton, former Waltrip principal, said the books cited have "educational and literary merit." Cotton further stated that *Space City!* has no literary merit and would have disrupted classes. Kitchen was reinstated, pending the results of the present hearing, by order of U. S. District Judge Woodrow Seals. Reported in: *Houston Chronicle*, February 11.

## MIDWESTERN STATES (D)

### Highland Park, Mich.

The Michigan Court of Appeals ruled that a city ordinance used to deny business permits to persons deemed "not of good moral character" is unconstitutional. In an appeal brought by Sam Soof and Ronald Mazelis, owners of the Uptown Book Store, the court said the ordinance contains standards that "lack the precision required of laws which have a restrictive effect upon First Amendment rights . . . and thus is incapable of objective measurement." Reported in: *Detroit Daily News*, February 17.

### Minneapolis, Minn.

True to his promise to ignore U. S. Supreme Court standards of "redeeming social importance" (see January 1971 *Newsletter*, p. 10), Hennepin County Municipal Judge James Johnston declared that the movie *Sexual Freedom In Denmark* is obscene. Despite his ruling, Judge Johnston has no power to halt the film at the Empress Theater because a July, 1970 order by Judge Earl R. Larson enjoins police from seizing copies of the film or arresting anyone in connection with its showing unless minors are involved or pandering can be proven. Judge Larson used *Stanley v. Georgia* to show that obscene material is protected by the First Amendment. Judge Johnston, however, relied on a 1969 federal court ruling to show that Supreme Court criteria apply only where the materials are not obscene. In his decision, Johnston said, "It is not necessary that the material be constitutionally obscene," only that it be "harmful" to minors because of its sexual provocation. The attorney for the defense said he will appeal the conviction to Hennepin County District Court. Reported in: *Minneapolis Tribune*, January 6.

### Omaha, Neb.

Municipal Court Judge D. B. Anderson ruled in a case involving the movie *Beyond the Valley of the Dolls* that a city anti-obscenity ordinance under which suit was brought was unconstitutional because too vague. The ordinance lacks a provision requiring that a person "knowingly" violate the law. The city prosecutor said he will meet with the city attorney to draft a new ordinance

based on a Texas law which has been upheld in state and federal courts. Reported in: *Omaha World Herald*, February 3.

#### **Columbus, Ohio**

Franklin County Common Pleas Judge Frederick T. Williams ruled that films confiscated by police from the Adult Cinema are obscene. Judge Williams said, "The reels in question could best be described as a montage of fornication . . . masochism, sadism, and sodomy. . . . It is interesting to note that none of the [U. S. Supreme Court] decisions so far rendered has yet said that obscenity, as such, is protected by the First Amendment. Also, none of the decisions has said that the states are without authority to regulate obscenity." Reported in: *Columbus Dispatch*, January 25.

#### **Columbus, Ohio**

Appellate Court Judge Alba Whiteside, ruling in a case involving 127 publications seized in a series of police raids on adult bookstores, said that the publications are obscene by U. S. Supreme Court standards. In his decision, Judge Whiteside said that "there is inherent in the publication of such material exploitation of the persons posing for the pictures, including, in some instances, minors." He added that it is impossible for the pictures to be made without illegal acts of prostitution and sodomy. Reported in: *Columbus Citizen Journal*, March 3.

#### **Madison, Wis.**

The Wisconsin State Supreme Court upheld the jailing of Mark Knops, editor of the underground newspaper, *Kaleidoscope*, for refusing to answer questions in a grand jury inquiry into a campus bombing. The court ruled that the public's "overriding need to know" what Knops might be able to disclose outweighed his right, as a newsman, to conceal his sources. In affirming Knops' conviction, the court said, "In a disorderly society such as we are currently experiencing it may well be appropriate to curtail in a minor way the free flow of information, if such curtailment will serve the purpose of restoring an atmosphere in which all our fundamental freedoms can flourish." The court, in a unanimous decision, also said no distinction should be drawn between members of the underground and establishment press. Reported in: *New York Times*, February 3.

#### **Madison, Wis.**

U. S. District Judge James E. Doyle denied a motion by Mark Knops, editor of *Kaleidoscope*, that police be restrained from photographing participants in political demonstrations and rallies. Knops and Anne F. Bach of Madison sought the temporary restraining order on grounds that such surveillance inhibits them from exercising their rights to free speech, assembly, and expression. Reported in: *Washington Post*, February 6.

## **SOUTHERN STATES (E)**

#### **Mobile, Ala.**

On January 25, U. S. District Court Judge Virgil Pittman issued a temporary restraining order barring further prosecution of Roswell Engstrom, proprietor of Dauphin News Stand, for alleged violations of the city's anti-obscenity ordinance. Judge Pittman ruled that seizure of publications from Engstrom was unconstitutional because done prior to an adversary hearing to determine obscenity. The court ordered the materials returned to Engstrom, and further, struck down as unconstitutional a section of the ordinance prohibiting private possession of pornographic matter. The latter conclusion was based on the U. S. Supreme Court decision in *Stanley vs. Georgia*. However, on February 25, a three-judge federal panel dismissed Engstrom's further suit to have state obscenity laws declared unconstitutional on the same basis. The panel said, "We think that it would be both unnecessary and presumptuous for this court to undertake to instruct the state courts as to how those questions should be decided." (See article on p. 64) Reported in: *Mobile Register*, January 26; February 26.

#### **North Little Rock, Ark.**

District Court Judge G. Thomas Eisele declared the city ordinance creating a censor board to be unconstitutional because it does not provide an adversary hearing to determine if a film is obscene prior to initiation of legal action. The ordinance was the basis for a raid on the Joy Twin Theater and seizure of the movies *Office Love-In* and *Her Odd Tastes*. Southland Theaters, Inc., owner of the Joy Twin Theater, had filed suit against the seizure, but a trial was unnecessary because the attorneys agreed on a settlement out of court. The settlement was reached on the condition that Judge Eisele declared the ordinance unconstitutional. Reported in: *Little Rock Gazette*, February 23.

#### **Washington, D.C.**

Superior Court Judge Charles W. Halleck found Frederick C. Wiehoit, an employee of Village Books, Inc., guilty of selling a pornographic book. Wiehoit received a one-year jail sentence and a fine of \$3,000, the maximum sentence and hardest ever imposed in such a case. "Sir, in my view you are a polluter of the morality and decency of the city, now making your living in the sale of filth," Judge Halleck said. Wiehoit's attorney plans to appeal. Reported in: *Washington Post*, February 4.

#### **Washington, D.C.**

Federal grand juries in San Diego, Cal., and Dallas, Tex., indicted three corporations and four individuals for allegedly adding pornographic pictures to the report of the Commission on Obscenity and Pornography.

Cause of the charges was a 352-page publication, illustrated with color and black-and-white photographs showing explicit sexual acts, and sold as *The Illustrated Presidential Report of the Commission on Obscenity and Pornography*. Named in the suit were Greenleaf Classics, Inc., Reed Enterprises, Inc., Library Service, Inc., and various officers of the three firms. All are charged with interstate shipment of obscene matter and conspiring to send obscene matter through the mails. Reported in: *Washington Post*, March 6.

#### **Atlanta, Ga.**

The Georgia State Supreme Court, in a case involving *I Am Curious (Yellow)*, ruled the movie obscene. It further said the film may not be shown to the general public even if minors are prohibited. In so ruling, the court said that state courts are not prohibited from finding a film obscene simply because of a decision that the same film is not obscene by the U. S. District Court of Appeals. Reported in: *Atlanta Constitution*, March 6.

#### **Macon, Ga.**

U. S. District Court Judge W. A. Bootle, ruling in a suit against Mayor Ronnie Thompson and other city officials, issued an injunction to prevent the City of Macon from refusing to license Cramer H. Hopper to operate an "adult" bookstore. "The question presented," said Judge Bootle, "is whether a city can use its business licensing powers to institute censorship of books and magazines. Reason, history and decided cases combine to compel a negative answer." Reported in: *Macon Daily News*, February 20.

#### **Murray, Ky.**

U. S. District Judge Rhodes Bratcher, ruling on a request for extension of a restraining order, said that a temporary order issued January 21 is still in effect. The order restrains Calloway County officials from further prosecution against Murray Drive-In Theater, Inc., but a movie — *The Notorious Cleopatra* — seized December 13, 1970, remains in the custody of the county and any use of the movie (even by a county grand jury) is forbidden. Extending the restraining order, Judge Bratcher said the theater's constitutional rights may have been violated by improper seizure of the film without an adversary hearing to rule it obscene. Reported in: *Louisville Courier Journal*, February 10.

#### **Frankfort, Ky.**

State Court of Appeals Commissioner Bernard Davis, in a case involving the sale of a magazine entitled *After Hours*, ruled that James W. Smith is guilty of selling "hard-core pornography." Referring to the magazine, Commissioner Davis said that one supposedly factual article on sharks fails to inject any redeeming value into the publication. The court's decision affirmed the constitutionality of Kentucky's obscenity statute which Smith

had challenged. The court rejected Smith's attorney's argument that a lack of reference to "redeeming social value" rendered the statute unconstitutional. Reported in: *Louisville Times*, February 26.

#### **Annapolis, Md.**

The Maryland Court of Special Appeals reversed the obscenity conviction of Marshall E. Woodruff, owner of the Joint Possession. Woodruff was convicted for selling an issue of the now defunct *Washington Free Press*. In overturning the earlier conviction by Prince George's County Circuit Court Judge Roscoe H. Parker, the Court of Special Appeals said of the controversial issue of the underground: "One theme runs relentlessly throughout and it is one of dissent, rebellion, revolution, iconoclasm, hedonism, libertarianism, anti-authoritarianism, and anti-establishment protest in every conceivable manifestation; which is to say, its dominant character is polemic rather than prurient." On the question of a disputed cartoon in the issue, the court ruled it cannot be considered obscene. Of special interest to librarians is the court's finding that Judge Parker's refusal to allow two librarians to testify as expert witnesses or to allow the introduction of other newspapers and magazines sold in the county "were abuses of the court's discretion." [Mr. Woodruff's legal defense fund received a \$250 grant from the Freedom to Read Foundation at ALA's Annual Conference in June 1970 in Detroit.] Reported in: *Washington Post*, February 11.

#### **Baltimore, Md.**

M. Richard Kirstel, arrested last October for trespassing when he refused to remove his photography exhibit from the Towson State College campus (see January 1971 *Newsletter*, p. 6, for details), testified before Baltimore County Circuit Court Judge John Grason Turnbull that he had a "morally and legally binding contract" to present his exhibition. Witnesses for the prosecution said Kirstel was asked twice to leave the campus before he was arrested. Kirstel said he ignored the request because he questioned the security guard's authority to abrogate his agreement with the art department. Members of the art department testified that such an agreement did exist. Reported in: *Baltimore Sun*, February 25.

#### **Montgomery County, Md.**

The U. S. 4th Circuit Court of Appeals rejected a plea for the convening of a three-judge federal panel to settle a dispute centering on the censorship of high school publications. (See p. 58 for details.) Reported in: *Richmond (Va.) Times-Dispatch*, March 15.

#### **Charlotte, N.C.**

A three-judge federal panel dismissed a challenge to the state obscenity law and said that it is prohibited by federal law from intervening when a case is in progress in the state courts. The suit was brought by Hartsville

Theaters, Inc., of Aiken for injunctive relief and a declaratory judgment, both of which were refused. At issue was the seizure of a film, *Cherry, Harry and Raquel*. (See article on p. 64). Reported in: *Charlotte Observer*, February 24.

#### **Newport News, Va.**

Municipal Court Judge W. Robert Phelps convicted George Queen and Nicholas Ferraro, employees of the Village Book Store, of selling obscene books. In his decision, Judge Phelps ignored most of the defense pleas, including reliance on *Stanley vs. Georgia* which established the legality of private ownership of obscene materials. The defense contended that if possession is legal, sale must also be legal. Reported in: *Newport News Press*, January 29.

### **NORTH ATLANTIC STATES (F)**

#### **Boston, Mass.**

The Massachusetts State Supreme Court, ruling in the case of Paul Pappas, a news and cameraman for a New Bedford television station, declared that Massachusetts newsmen have "no constitutional newsman's privilege, either qualified or absolute, to refuse to appear and testify before a court or grand jury." Pappas had visited a Black Panthers' headquarters several hours before a police raid. He was subpoenaed and answered all grand jury questions except about whom or what he saw inside the headquarters. Reported in: *Washington Post*, January 30.

#### **Buffalo, N.Y.**

Judge H. Buswell Roberts ruled that William C. Schewer is innocent of charges of "lewdness." Schewer, 19, was arrested for sitting nude near a State University of Buffalo building. Assistant district attorney Thomas W. Steffan argued that intentionally exposing one's body in public is to be construed as "lewdness." Judge Roberts said this argument would "assign by legislative dictum a moral ugliness to the human form unsupportable either by reason or defensible precedent." He said the law does not prohibit exposure but does bar "lewd" exposure. Steffan said he will seek to appeal the decision. Reported in: *Buffalo News*, January 20.

#### **Buffalo, N.Y.**

Citing guidelines from the report of the Commission on Obscenity and Pornography, City Judge Theodore S. Kasler ruled that the film *Six for Sex*, showing at the Fine Arts Theater, is obscene. Patrons of the theater were ordered out of the building and manager Gerald Attenson was taken into custody. Reported in: *Buffalo News*, January 23.

#### **New York, N.Y.**

The U. S. Court of Appeals, ruling in the case of *Eisner vs. Stamford Board of Education*, upheld a lower

court decision that a rule concerning distribution of unauthorized publications on school property is too prohibitive. The Court of Appeals, however, limited the previous decision by specifying procedures for censorship or prohibition of unauthorized and authorized publications. (See p. 58 for details.) Reported in: *New York Times*, March 6.

#### **New York, N.Y.**

A three-judge federal panel, composed of Judges John F. Dooling, Jr., Wilfred Feinberg, and John R. Bartels, ruled that the United States cannot bar an alien visitor who espouses "anarchistic" doctrines aimed at the forcible overthrow of the government. The court upheld the right of Dr. Ernest E. Mandel, an internationally known Belgian Marxist, to obtain a visa to lecture at colleges, universities, and specific conferences. In so ruling, the panel held unconstitutional certain sections of the Immigration and Nationality Act of 1952, popularly known as the McCarran Act. In a dissenting opinion, Judge Bartels said, "In the hierarchy of priorities the imperative of national security in dealing with aliens must prevail over limited restrictions upon First Amendment rights." Reported in: *New York Times*, March 19.

#### **New York, N.Y.**

A three-judge criminal court panel found the editor and publisher of *Screw Magazine* guilty of distributing and selling obscene materials. Al Goldstein and James Buckley face maximum sentences of four years in prison and \$4,000 in fines. Reported in: *Philadelphia Bulletin*, March 23.

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*Librarians, Censorship and Intellectual Freedom: 1968-69*, an annotated bibliography including references to books and articles from the popular and library press, is available for \$1.25 from Publishing Services, 50 East Huron Street, Chicago, Illinois 60611.

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### **Civil Liberties Docket**

The *Civil Liberties Docket*, published by the Meikeljohn Civil Liberties Library, is now in its fourteenth volume. *The Docket* contains a digest of 1,500 cases — many never reported elsewhere — in which questions of freedom of expression, due process, or equal protection are raised. It provides a comprehensive procedural history of each case and a statement of relevant legal issues. Volume fourteen also indicates what pleadings, interrogations, and briefs in the cases are available from the Meikeljohn Library. As an added service, it includes a nationwide referral directory of lawyers who specialize in fields covered in *The Docket*, lawyers who might be consulted regarding pending cases, or who may assist students seeking interesting employment. Volume fourteen is available at \$15.00 to individuals and \$20.00 to libraries, with a \$10.00 rate for ten or more copies.

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"History presents the facts of a Seven Years' War, a Thirty Years' War, and a Hundred Years' War, but the history of English literature would indicate the unparalleled extension of at least a Three Hundred Years' War — the war of words whose tensed fields were the courts, whose hectic strategy revolved around the word "obscenity," whose weapons were legal strictures and classic retorts."

—Leo M. Alpert

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#### Our Federalism . . . (from page 64)

##### *New Orleans Newsstand Case*

On the same basis, the court struck down the lower-federal-court decision barring prosecution of a St. Bernard Parish newsstand dealer charged with distributing obscene materials. Reported in: *Washington Post*, February 24.

##### *Dallas Underground Case*

Using the same rationale, the court cleared the way for prosecution of the owner of an underground newspaper in Dallas on charges of distributing obscene materials. Reported in: *Washington Post*, February 24.

##### *Other First Amendment Decisions*

February and March produced several other decisions concerning the First Amendment and intellectual freedom.

##### *Maryland I Am Curious (Yellow) Case*

Skirting the key issues of obscenity and constitutionality of censor boards, the court voted 4 to 4, with Justice Douglas not voting, on a Maryland ban of the movie *I Am Curious (Yellow)*. In a one-sentence statement, the court thus upheld the ban and did not discuss the case or say how the justices voted. Reported in: *Baltimore Sun*, March 9.

##### *Libel Cases*

Following a standard set in the 1964 *New York Times* case, the court held in three decisions that a public official cannot collect a libel award "unless he proves that the statement was made with actual malice — that is, with knowledge that it was false or with reckless disregard of whether it was false or not." The suits involved Florida and New Hampshire newspapers and *Time* magazine. Reported in: *Chicago Tribune*, February 27.

##### *Loyalty Oath Cases*

Considering three cases which involved loyalty oaths required of members of state bar associations, the court upheld one oath and struck two others. In a New York case, the court upheld the constitutionality of the requirement that attorneys take a loyalty oath and undergo character examination for admission to the state bar.

However, in an Arizona case, the court ruled that a person may not be prohibited from the bar for refusing to say whether he was or had been a communist or a member of an organization advocating the overthrow of the government. In an Ohio case involving similar circumstances, the court's ruling was the same. Reported in: *Chicago Tribune*, February 24.

##### *Language of Love Case*

The court agreed to determine if the Swedish film *Language of Love* can be barred from the U. S. as obscene. The U. S. Court of Appeals for the second circuit ruled that the film cannot be barred from importation. Reported in: *New York Times*, February 23.

##### *The Rag Case*

The court agreed to hear the case of the University of Texas regents against students distributing the underground newspaper, *The Rag*, on the Austin campus. The case may raise important questions about a university's right to make rules which conflict with constitutional guarantees of free speech. Reported in: *Dallas News*, March 2.

##### *New York Flag Desecration Case*

In a 4 to 4 vote, with Justice Douglas disqualifying himself, the court upheld a New York law making it a crime to "dishonor" the American flag in an art display. Steven Radich, operator of a Madison Avenue art gallery, was found guilty in New York's Court of Appeals of "dishonoring the flag" by displaying three art works, one in which the flag was a male sex organ, one in which it was a human body hanging from a noose, and one in which it was a cannon on a caisson. The lower court said an artist or art dealer "may have a sincere ideological viewpoint, but he must find other ways to express it." Reported in: *Washington Star*, March 24.

##### *LA Free Press Case*

With Justices Douglas, Brennan, and Black dissenting, the court refused to hear the complaint of the underground *Los Angeles Free Press* that it was unfairly denied vital press credentials, regulated by police, to cover newsworthy events. Reported in: *Washington Post*, March 23.

##### *Ft. Bragg Case*

Over the same three dissents, the court also denied a hearing to servicemen stationed at Fort Bragg, N. C., who claim the Army unfairly denies them the right to distribute war literature on the base. Reported in: *Washington Post*, March 23.

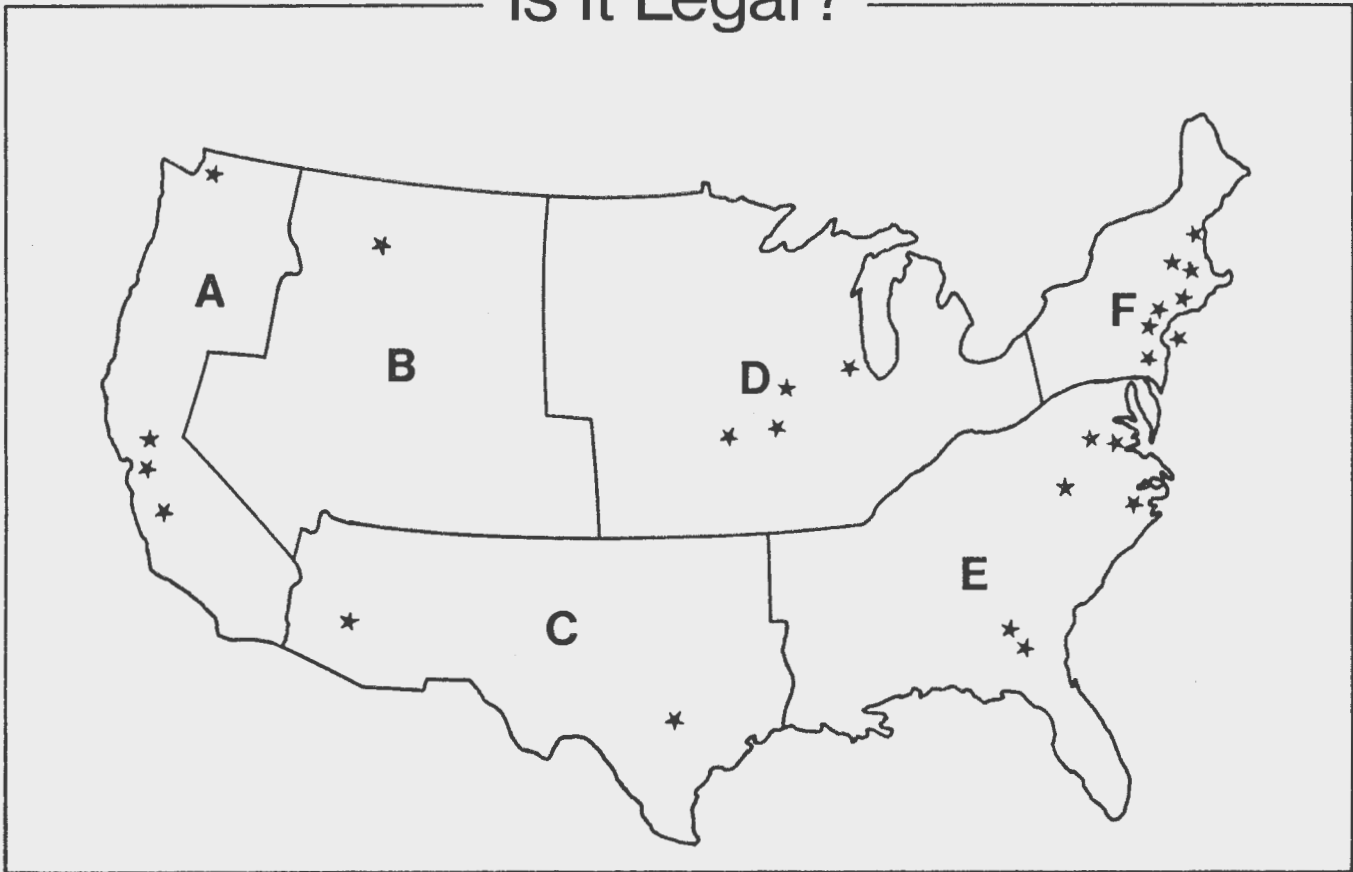
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"Censorship or prior restraint is anathema to the First Amendment, for it puts the hand of the censor in every editorial and in every news account. Once the censor enters the scene, he becomes, by virtue of his power, the dictator."

— William O. Douglas

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# Is It Legal?



## PACIFIC COAST STATES (A)

### Fresno, Cal.

The 1970 Fresno County Grand Jury asked the state attorney general's office to create and make available to local authorities a task force of specialists trained in the prosecution of purveyors of hard-core pornography. Reported in: *Fresno Bee*, January 15.

### Sacramento, Cal.

An amendment to the state penal code makes it a misdemeanor to engage in, produce, or exhibit obscene live conduct, meaning physical human body activity, when, taken as a whole: its predominant appeal is to prurient interest, it goes beyond customary limits of candor, and it is without redeeming social value. The conduct is to be judged with reference to average adults, unless it appears to be designed for clearly defined deviant sexual groups. In the latter case, the predominant appeal of the conduct is to be judged with reference to the intended recipients. Reported in: *IACP (International Association of Chiefs of Police) Law Enforcement, Legislation, and Litigation Report*, January, 1971.

### San Francisco, Cal.

The San Francisco Board of Supervisors unanimously adopted an ordinance requiring operators of theaters in the city to obtain \$100 permits from the police chief. The ordinance allows the police to refuse a permit to anyone convicted of showing an obscene production, anyone who is a registered sex offender, or anyone convicted of a felony involving force or violence. The board must approve the ordinance once more before it becomes law. Reported in: *San Francisco Chronicle*, January 26.

### Bellingham, Wash.

City Attorney Richard Busse advised the city council license committee that it must grant a license to a local photographer of nude women. Busse said he is compelled to reach his decision "solely because decisions of the U. S. Supreme Court virtually dictate that I do so." Reported in: *Bellingham Herald*, February 21.

## ROCKY MOUNTAIN STATES (B)

### Helena, Mont.

Over claims that it is an "hysterical bill," House Bill 423, legislation against the sale or display of harmful or

pornographic materials to minors, got tentative approval. Reported in: *Helena Independent Monitor*, February 12.

## **SOUTHWESTERN STATES (C)**

### **Phoenix, Ariz.**

The Arizona State Legislature enacted a law making it a misdemeanor for any person to knowingly sell, loan, rent, or give to any minor any item which depicts nudity, sexual conduct, sexual excitement, or sado-masochistic abuse which, taken as a whole, is harmful to minors. "Harmful to minors" is judged by the standard criteria: predominant appeal to prurient interest, offensiveness to prevailing community standards, and lack of redeeming social value. Reported in: *IACP (International Association of Chiefs of Police) Law Enforcement, Legislation, and Litigation Report*, January, 1971.

### **Austin, Tex.**

A Texas State Senate Committee voted tentative approval of a bill authorizing establishment of local movie review boards to determine which films are suitable for their communities. Reported in: *San Antonio News*, January 5.

## **MIDWESTERN STATES (D)**

### **Chicago, Ill.**

Parents of twelve Kenwood High School students, through the Illinois Civil Liberties Union, filed suit against the Chicago Board of Education charging that the board collected and disclosed information about the students' political affiliations and beliefs. The class action suit on behalf of all Chicago high school students asks the court to prevent the school system from further collecting or distributing information. The suit charges that such practices violate the students' rights of free speech, press, and association. According to the suit, the information was published in *The SDS Riots*, a report on radical student violence prepared by the Illinois Crime Commission. Reported in: *Chicago Daily News*, March 12.

### **Des Moines, Ia.**

State Senator Eugene Kennedy proposed that Iowa's outdated obscenity laws be revised and modeled after a New York statute which was declared constitutional by the U. S. Supreme Court in 1968. The statute, popularly known as the "variable obscenity" law, explicitly defines the types of materials that can be prosecuted if given to children seventeen years of age and under. Reported in: *Sioux City Journal*, January 24.

### **Topeka, Kan.**

State Representative John Hayes introduced a bill to prohibit the sale of books or publications promoting any

narcotic — including books on how to cook with marijuana. Under the bill, it would be illegal to publish books promoting or encouraging the production, preparation, growth, or use of any narcotic drug. Only books prepared for doctors, dentists, or veterinarians would be exempt. Violations would carry a fine of \$5,000 or a one-to-ten-year jail sentence, or both. Hayes cited such titles as *The Pot Book*, which he purchased in a Topeka bookstore, as an example of "objectionable" literature. Reported in: *Wichita Beacon*, January 21.

### **Kansas City, Mo.**

The city council passed an ordinance prohibiting publication or sale of obscene literature and public exhibition of obscene movies or stage performances. The ordinance, introduced by Councilman John D. Maguire, amends existing city codes to conform with a recent Missouri Supreme Court ruling which defines obscenity. Maguire's ordinance was specifically aimed at the play *Hair*, which recently opened in Kansas City. Reported in: *Kansas City Times*, March 6.

## **SOUTHERN STATES (E)**

### **Washington, D.C.**

Legislation introduced in the House by Charles W. Whalen (R.-Ohio), and co-sponsored by twenty-nine other representatives, would prevent federal officials from forcing newsmen to disclose confidential information or news sources. The bill, called "Newsmen's Privilege Act," would apply to proceedings before federal courts, grand juries, agencies, departments, commissions, and Congress. Reported in: *Broadcasting*, February 15.

### **Washington, D.C.**

The U. S. Postal Service reported that, as of March 9, approximately 70,000 persons had registered their names to avoid receiving obscene literature advertising. The Postal Service also said only one mailer of such advertising has deposited the required \$5,000 to acquire the list of names. At the end of the year, the total costs of maintaining the list are to be divided among all purchasers. Reported in: *New York Times*, March 10.

### **Atlanta, Ga.**

Fulton County Solicitor Hinson McAuliffe, addressing Atlanta's Young Republicans, said the legal fight against obscene literature is "just exactly impossible" because of U. S. Supreme Court rulings on the subject. He recommended a "flood of angry letters" as the best alternative method for combating the problem. Reported in: *Atlanta Constitution*, January 27.

### **Macon, Ga.**

Mayor Ronnie Thompson suggested requiring license fees from \$50,000 to \$100,000 for adult bookstores.



City attorney Lawton Miller said he does not believe such a fee would stand up in a court test. Reported in: *Macon News*, January 21.

#### **Norfolk, Va.**

Commonwealth's Attorney Joseph H. Campbell showed sex films and books to a group of adults, segregated by gender, to establish community standards on obscenity. Campbell said he plans to use the results in prosecuting five cases involving distribution of obscene materials. The measurement of community standards was to be determined through a questionnaire asking: (1) Does the dominant theme of the material taken as a whole appeal to a prurient interest in sex; that is, a shameful or morbid interest in nudity or sex? (2) Is this material patently offensive because it affronts contemporary community standards of Norfolk, Va., relating to the description or representation of sexual matters? (3) The same question pertaining to Tidewater, Va. (4) The same question pertaining to Virginia. (5) The same question pertaining to the U. S. (6) Is this material utterly without redeeming social value? Reported in: *Norfolk Pilot*, January 13.

#### **Charleston, W. Va.**

Mrs. Louise Leonard, Republican state senator, introduced a bill to bar showings of films depicting "exposed mammary glands of females, or genitals of a male or female in a lewd, indecent, vulgar, or obscene manner." The bill is known as the "Crimes Against Chastity" Act. Reported in: *Philadelphia Inquirer*, February 4.

### **NORTH ATLANTIC STATES (F)**

#### **Boston, Mass.**

An amendment to the Massachusetts General Laws tightens the exemption granted motion picture operators from obscenity laws by adding a requirement that the operator must not have authority for determining which movies are shown. Previously the only requirement for exemption was that the operator have no financial interest in the theater where employed. Reported in: *IACP (International Association of Chiefs of Police) Law Enforcement, Legislation and Litigation Report*, January, 1971.

#### **Boston, Mass.**

The Massachusetts State Legislature has before it three bills concerning protection of newsmen's sources of information. One bill would prevent grand juries and governmental agencies from acquiring the names of newsmen's sources without a court order. The second bill is similar, but limited in scope. The third bill would give newsmen an absolute privilege to protect their sources. Reported in: *Providence (R.I.) Journal*, February 26.

#### **Portsmouth, N.H.**

Representative Malcolm Stevenson is sponsoring a bill in the New Hampshire State Legislature to ban stu-

dent strikes, boycotts, or demonstrations on state campuses. It would also ban the use of student fees for "speakers promoting political views on campus." Reported in: *Portsmouth Herald*, January 22.

#### **Newark, N.J.**

By a vote of 11 to 1, the New Jersey State Board of Education upheld a ruling by State Education Commissioner Carl Marburger permitting student publication and distribution of an underground newspaper at Livingston High School. (See p. 64 for details.) Reported in: *Newark Star-Ledger*, March 4.

#### **New York, N.Y.**

In Federal District Court, William F. Buckley, Jr., challenged the constitutionality of a requirement that he join and pay dues to a private organization in order to appear regularly on television and radio. Named as defendants in the suit were the American Federation of Television and Radio Artists (AFTRA) and RKO General, Inc., which owns and operates the New York television station over which Buckley's weekly discussion program, "Firing Line," originates. Buckley maintains that to deny an individual the right to express opinions over the public airways unless he consents to join a private organization is an act of coercion and an infringement on the constitutional right of free speech. Reported in: *Chicago Tribune*, January 6.

#### **New York, N.Y.**

Police raided three movie theaters in the Times Square area and arrested managers and projectionists. No films were seized. Deputy Chief Inspector John L.P. Keenan said he was "encouraged" to act by the U. S. Supreme Court decision on *I Am Curious (Yellow)*. Reported in: *New York Times*, March 12.

#### **New York, N.Y.**

A suit was filed in Federal Court in Manhattan by the New York Civil Liberties Union for five public school students and their parents against the board of education and four school officials. The suit asks the court to compel school officials to let students distribute uncensored literature on school property, so long as it produces no disorders. (See p. 58 for details.) Reported in: *New York Times*, March 19.

#### **Providence, R.I.**

The Rhode Island State House of Representatives approved legislation to bring previews of coming movie attractions under the law barring juveniles from seeing films classified as objectionable for them. The bill was sent to the Senate for approval. Reported in: *Providence Bulletin*, February 13.

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"It is not literature that confuses but the fact that the easily confused are able to read."

— Jonathan Daniels

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## Coalition Statement on COP Report

(Continued  
from page 57)

What the report *did* recommend was the abolition of those obscenity laws that prohibit the distribution of materials to adults who choose to receive them. This is not a radical innovation. The Supreme Court has ruled that the First Amendment protects an adult's right to read and see whatever he chooses, and we believe the same constitutional principles necessarily protect the publisher or bookseller who sells these materials to consenting adults.

While others disagree with this conclusion, these differences are legitimate subjects of debate. And there should be debate also on the commission's conclusions that obscenity statutes, because of their vagueness, suppress non-obscene works, and that scientific studies provide no evidence that obscene books or motion pictures incite adults to criminal conduct, sexual deviancy, or emotional disturbances. There should also be discussion of the commission's proposals for a broad-scale program of sex education and for further scientific investigation.

The undersigned do not necessarily agree with each other about the issue of obscenity and its significance in American life. But we are united in our concern about censorship and the need for freedom of thought and freedom of expression — freedom of choice — in all areas of human existence. This is why, without endorsing or opposing the commission's report, we commend it for serious study and debate by legislators, courts, community leaders, and the general public. We urge that proponents and opponents of the report participate fully and rationally in this process, a venture that can enlarge intelligent understanding of a social question which requires wise decision-making.

American Civil Liberties Union  
American Federation of Teachers  
American Jewish Committee  
American Library Association  
American Orthopsychiatric Association  
American Public Health Association  
Association of American University Presses, Inc.  
Association of American Publishers, Inc.  
Author's League of America, Inc.  
Bureau of Independent Publishers and Distributors  
\*John Donovan, Executive Director, The Children's Book Council, Inc.  
\*Charlton Heston, President, Screen Actors Guild  
International Reading Association  
Jewish War Veterans of the USA  
National Association of Theatre Owners, Inc.  
The National Book Committee, Inc.  
National Council for Social Studies  
National Council of Churches of Christ in the USA  
National Council of Jewish Women  
National Council of Teachers of English  
National Education Association  
National Library Week Program  
National Board, YWCA  
\*Lewis I. Maddocks, Executive Director, Council for Christian Action  
of United Church of Christ  
\*The Rev. Everett Parker, Director, Office of Communication,  
The United Church of Christ  
Periodicals and Book Association of America, Inc.  
P.E.N. American Center  
Sex Information and Education Council of the United States, Inc.  
Union of American Hebrew Congregations  
Women's National Book Association  
Speech Communication Association

\*Organization's name given for identification only.

## Viewpoint: The Printer and Censorship

Peter D. Doeblen

A very disturbing news item crossed my desk recently. *The Wall Street Journal* reported that the publisher of *Scanlan's Monthly*, an anti-establishment magazine, was suing a printer and his union, Barnes Press of New York City and Local 1 of the Amalgamated Lithographers Union. The publisher claimed the printer and the union had impeded the printing of the November issue because of its content, which deals with guerrilla warfare in the U. S. The suit, which asks damages of \$1,250,000 and an injunction to force printing of the issue, charges violation of the U. S. Constitution including the First Amendment's freedom of the press provision.

*Scanlan's* maintains that lithographers in the Barnes plant refused to produce the magazine when they saw its content, because they disagreed with it. And this constitutes a form of censorship in violation of the First Amendment, according to this line of reasoning. At this point, the immediate case is clouded in uncertainty, with both sides offering two very different accounts of what happened. From the original news report in the *Journal*, it appears that neither Barnes nor the union leadership sparked the incident, but that it sprang instead from a group of men in the shop — that is, if it occurred the way *Scanlan's* says it did. For the company and union involved are two of the most reputable organizations in graphic arts. Barnes is a long-established producer of periodicals. The union is one of the most enlightened and progressive in all labor. Led by Edward Swayduck, who has pushed both his industry and his membership toward the intelligent use of new printing technology, the union publishes one of the most exceptional magazines to be found anywhere, the liberally oriented *Lithopinion*. Moreover, the reasons given by *Scanlan's* for two other printers, located in other parts of the country, refusing to print the magazine are very coincidental—refusal of a few men in the shop to handle the work.

Regardless of the specific situation in this case, however, the fundamental issue it raises is a sobering one for the years ahead. In fact, if the *Scanlan's* incident does not turn out to be a true test of this First Amendment issue, it may be more of a disservice to printing and publishing than if it did happen as *Scanlan's* charges. For the incident is only the latest of a series in which printers and publishers have differed over what should be printed — and in other cases, there has been no doubt at all that printers have refused to print on grounds that they found the content objectionable.

One way it can be objectionable, of course, is if it causes other customers to withdraw business from the printer. In these circumstances, the printer may have very real problems of business survival to consider. But

another way material can be objectionable is if it does not agree with the printer's own personal tastes and views. Here the printer can easily rationalize his not printing the work with several lines of thought — that it might offend others of a like mind; that the material is not worthy of publication anyway; that it might reflect on his reputation in a way he would not want.

Most of these instances might appear to have grown out of the wide-spread production of pornographic materials prevalent today. But the issue of pornography is not the primary cause for concern with this trend. It is, rather, what may be a growing tendency of printers to refuse to print material because of political content, not pornographic content. Much sexually oriented material is used today by younger people in a political context for political purposes. Refusing to print it thus becomes a form of political censorship regardless of the printer's intent. In the *Scanlan's* case, there apparently is no pornographic question at all.

It is true that a printer is a private citizen and has the right to live his life in terms he feels are correct. But so, too, do others have the right of free speech, even though it may conflict with the printer's own views. And that right of free speech must include access to the technology of reproduction and dissemination which the printers of this country control. To deny someone access to printing technology is directly analogous to denying them access to the telephone or the airwaves. And in these areas, federal law and policy have long been designed to foster impartial use of electronic facilities for all.

Some might argue that as long as there are many thousands of printers, access to the technology is ample for all — a publisher can always find a printer somewhere who will produce his work. This argument, however, ignores the basic structure of the printing industry today and major trends in it. Actually, for a publisher of books or magazines on a commercial scale, there simply are not thousands of printers who can handle his work — rather, there are a relatively few hundred printers of each type of product who are really equipped to produce these economically in volume. And the number of printers who can handle a publication the size of *Scanlan's* is very small. Moreover, the ownership of such facilities is being concentrated in fewer and fewer hands, as the merger trend continues in printing. It is perfectly conceivable that someday the concentration of technology ownership in printing will permit a very few to exert a strong *de facto* censorship by refusing to print.

Thus, the printing of published material no longer can be regarded as a private technology. It has significant public-trust implications, and when a man becomes a printer today he occupies a special position in society in addition to his role as a single private citizen. As in the electronic utilities, this is a position of control over powerful information dissemination systems, a position he must fill with impartiality if a free press is to be guaranteed under the Constitution. As in other cases of special responsibility, personal rights must be subordi-

nated to the greater need of the society in general. Printers should print first, and not judge what they print until they decide whether to buy it in the market place.

However, we cannot simply declare that the printer today must not prejudge what he should print, for under the law he is held responsible for what he prints. He can be prosecuted along with his customer for producing libelous, pornographic, or otherwise illegal material, even though he had no part in conceiving it or no way of checking its legality. This tradition in law dates back to the earliest days of printing when the publisher was also printer and bookseller. Libel laws then were written to cover all the functions performed by this one producer of the published product. As the various functions grew and became separated in different establishments over the centuries, however, the laws were not changed. Now a printer, who has no practical control in choosing what to print, nor for that matter any editorial competence to do so, is held fully liable for it.

If the printer is to operate with true neutrality in an information dissemination system, he must be relieved of this responsibility over which he has no competent control. He should be exempted from the laws of libel, pornography, etc., at the same time he is required to print impartially. This would place full responsibility where it belongs, on the publisher who exercises editorial judgment.

Such an arrangement would fit the pattern of emerging communication systems much more closely than would today's contradictory structure. It is becoming increasingly evident that communication and information systems in this country are moving toward a higher level of organization in which various functions are more clearly defined and separated from each other. Publishing, for example, is now clearly recognized as the basic creative area in which information is gathered, evaluated, and shaped into packages for the consumer. Dissemination — that is, reproduction and distribution — on the other hand is essentially a mechanical process that can be performed separately from the actual content being handled. The traditional intertwining of printing and publishing in one industry does not fit this type of structure, and, indeed, today the separation of these into two distinct industries is a basic fact of life in the national print media. Printing in this new context of a total communication system would fall on the dissemination side, as one form of reproduction or output for publishers' end products, along with video images, sound recordings, etc.

In such a system, it is essential that the creative publishing functions remain free of government or other partisan control. It is this purpose to which the First Amendment is addressed. However, it is not necessary that dissemination functions be kept free of regulation — it is only necessary that they be openly available to every publisher on an equal basis. In some cases, government regulation to this end fosters rather than hinders a free information system. Today the impartiality of electronic dissemination systems is preserved by treatment of orga-

nizations in these areas as utilities. The telephone companies, for example, do not exercise control over what is said on their lines — and they are not responsible for what is said, either. They are required, however, to make their services freely available on a basis of equality for all users.

But, while telephone companies are regulated by government, this does not mean printers also would have to be regulated to ensure similar operating conditions within the printing industry. Telephone companies are regulated because of technological limitations — namely the need to maintain system integrity, a condition which prevents the development of normal competition in a free market. In printing, no such technological limitation exists (at least not now). A fully competitive market place is available to publishers in which to acquire reproduction and dissemination services — so long as printers are willing to print. All that would be required to guarantee that it remains an impartial market place accessible to all is a legal requirement that printers refrain from injecting their judgments of content into their buyer/seller relationships, and the removal of printers from responsibility for content.

The theory of such an information-system communications complex has been advanced before this, but theory has a way of getting lost in the rush of day-to-day problems. Now, however, such theoretical considerations are taking on urgent day-to-day meaning as publishers and printers find themselves spending money in court. A better approach would be rational planning by the industries involved of a structure more suited to the future, and the promotion of legislation to make it a reality.

[Reprinted with permission from *Book Production Industry*, December 1970.]

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“Book destruction is a kind of murder.”

— John Steinbeck

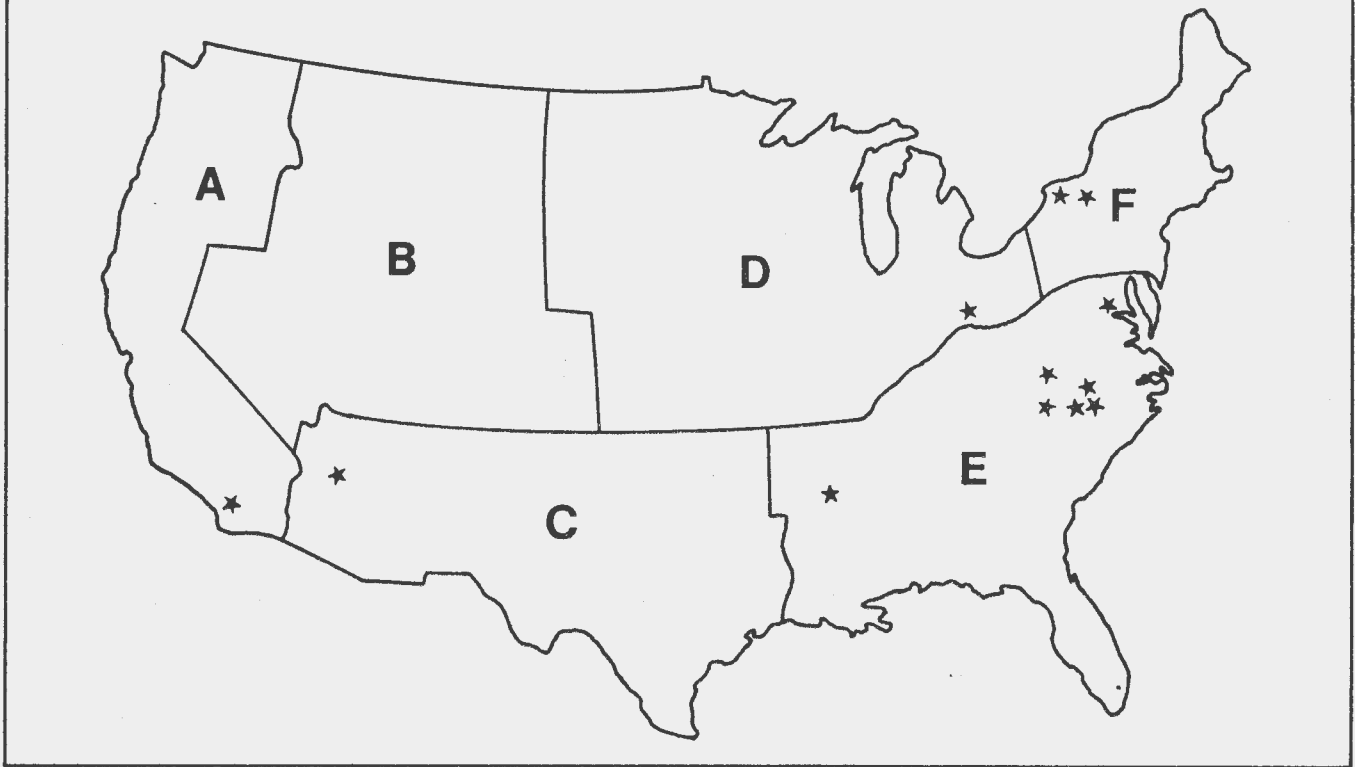
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## No Tripping Over Airways

In a 4 to 1 ruling, the Federal Communications Commission (FCC) decided that radio stations which fail in their responsibility to keep off the air lyrics tending to promote or glorify the use of illegal drugs may be subject to license cancellation. The lone dissenter was Nicholas Johnson who said the decision is “an unsuccessfully disguised effort to censor song lyrics.”

If broadly interpreted, the FCC's ruling could almost eliminate broadcasting of songs by any of the Beatles, solo or ensemble, by Laura Nyro, whose “Stoned Soul Picnic” and “Stoney End” probably fall into the “promote or glorify” category, or any songs by the Moody Blues, most of whose recordings seem designed to enhance a “trip.” Reported in: *Cash Box*, March 20.

# Success Stories



## PACIFIC COAST STATES (A)

### San Marino, Cal.

The San Marino Board of Education, at the urging of member Mrs. Barbara Maxwell, cancelled a scheduled previewing of a thirty-minute film on drug abuse. "I don't want to be in the position of censoring these films," Mrs. Maxwell said. "I think we should trust our administrators." The other board members unanimously agreed. In the future, no more preview sessions will be scheduled for the board. Reported in: *Pasadena Star News*, January 13.

## MIDWESTERN STATES (D)

### Cincinnati, Ohio

City Manager Richard L. Krabach reported to the city council that Vice Control Bureau and Law Department representatives believe *Hair* is vulgar and completely anti-establishment, but does not violate city or state obscenity laws. The decision was delivered in response to a petition from a group of citizens asking the city to stop presentation of the play at the Schubert Theater. Reported in: *Cincinnati Enquirer*, January 12.

## SOUTHERN STATES (E)

### Washington, D.C.

Representative Edwin B. Forsythe (R.-N.J.) announced he will introduce a bill to bar federal officials from forcing newsmen to disclose confidential information or sources of information in most cases. Exceptions would be situations involving threats to national security and certain defamation proceedings. Reported in: *Philadelphia Inquirer*, February 9.

### North Miami, Fla.

Gerald S. Arenberg, chief of staff for the American Federation of Police, accused the Illinois Police Association (IPA) of an "abuse of police power" in trying to ban *Sylvester and the Magic Pebble* from library shelves in Illinois. In a letter to IPA secretary-treasurer Victor J. Witt, Arenberg wrote, "While we do not like or approve of police officers being called 'pigs' or depicted as such, I believe your letter may cause the law enforcement profession much more criticism . . . that of acting as a censor. . . . It would only tend to prove to the critics of today's police that we are on the path to book-burning and thought control. I think such publicity is more degrading

to our profession than the 'pig' image you are trying to erase by abuse of police power." Witt denied that IPA was attempting to censor or act as a book burner. He said Arenberg's complaint "means nothing to me." Reported in: *Chicago Daily News*, January 25.

#### **Chapel Hill, N.C.**

Only a single reporter braved a cold drizzle and appeared for a scheduled picketing of Chapel Hill's leading outlet for obscene literature. Those failing to show were the Aroused Parents and Grandparents Committee for the Elimination of Pornography, the Committee for the Complete Elimination of Pornography, and the People Resolved to Obliterate Pornography and Erotic Rubbish. The reporter was allegedly "chilled to the bone, vastly bored, and profoundly disgusted." Reported in: *Chapel Hill Weekly*, January 10.

#### **Charlotte, N.C.**

The associate director of the charter commission staff, L. M. Wright, Jr., said the charter for consolidated government will include a statement against book-banning. At the request of Hoyt Galvin, former public library director, the charter will contain a statement that neither the public library's board of trustees nor its personnel shall be compelled "either directly or indirectly" to ban or censor any library material. It also spells out the library's responsibility to provide "the widest diversity of opinion and attitudes," including materials objectionable to some segments of the population. Reported in: *Charlotte News*, February 3.

#### **Greensboro, N.C.**

In an editorial, the *Greensboro News* urged state legislators to turn to the report of the Commission on Obscenity and Pornography as a guide for constructing a bill to control distribution of obscene materials. It said, "That report, we know, has been vilified from the White House on down, but that is a reflection on the critics rather than the report. It is a sober, essentially conservative document. . . ." Reported in: *Greensboro News*, January 24.

#### **Raleigh, N.C.**

The North Carolina State Board of Education refused to ban three public school textbooks cited as objectionable by a group of fundamentalist ministers. (See March 1971 *Newsletter* pp. 33-34.) The books had been temporarily banned in Rocky Mount schools when the group claimed they included writing by "known communists." The board ruled that, "Whatever the political leanings of any author, these textbooks are not used as vessels to transport those leanings." According to Dr. Robert A. Nelson, chairman of the state textbook commission, the critical question was whether textbooks will be chosen by professionally trained and legally constituted agencies or by "pressure groups dedicated to the advancement of a particular set of religious beliefs." Reported in: *Danville (Va.) Register*, February 10.

#### **Raleigh, N.C.**

The Publication Authority at North Carolina State University approved the use of photographs of female nudes in the 1971 student yearbook, *Agromick*. Publication Authority Chairman Craig I. Madans reaffirmed the right of student editors to select publication materials, free of censorship. Bill Bayley, *Agromick* editor, said, "We are not using the female as a 'sex object.' We had to use a nude and there is no possible chance of getting a male nude published. Our society hasn't come that far yet." Reported in: *Raleigh News & Observer*, March 6.

#### **Memphis, Tenn.**

The city's Board of Review was unsuccessful in its attempt to change from "GP" to "R" the rating of the box office smash, *Love Story*, based on the number one bestselling novel by Erich Segal. The board objected to "certain vulgar words" spoken by a male character in the movie. The board's next target is *Ryan's Daughter*, another popular favorite, challenged because of one scene showing a woman's bare breast for twelve seconds. Reported in: *Memphis Commercial Appeal*, January 28.

### **NORTH ATLANTIC STATES (F)**

#### **Rochester, N.Y.**

Local smut hunters were foiled when the Lyric Theater ended the run of the movie *Spread Eagle* before a court order could be served on the manager. The case was significant because, for the first time in Rochester, actions leading to an adversary hearing on a movie were instituted. Reported in: *Rochester Democrat and Chronicle*, January 16.

#### **Williamsville, N.Y.**

The city board of education discussed the inclusion of Marjorie Kellogg's *Tell Me That You Love Me, Junie Moon* in a tenth-grade English class. The discussion was in response to a request from Mrs. Hugh P. Hanley, a parent, that the book be removed because of crude language. Mrs. Dorothy Rizzo, a teacher, explained tenth-grade educational goals and showed how the Kellogg novel fit into the context of the complete English course. While several board members asked the English department to try to find a book of higher literary quality which would fulfill the same purposes, *Junie Moon* will remain for the time being. Reported in: (*Williamsville*) *Amherst Bee*, February 17.

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"It is by the goodness of God that in our country we have those three unspeakably precious things: Freedom of speech, freedom of conscience, and the prudence never to practice either of them."

— Mark Twain

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## Curbs On Campus Papers

After more than a year of debate and controversy, University of California regents approved a set of guidelines to govern campus publications. The guidelines are a result of a recommendation from regent John E. Canaday, who began a campaign against the obscene and socio-political content of many campus papers. Canaday called for either stricter regulation by campus chancellors or a complete curtailment of state funds used to finance student papers.

The new regulations offer the following guides: (1) the responsibility for the content of the student publications rests with the chancellor of each campus. (2) The chancellor or his representative must review the content of a student newspaper on the day it is published to determine if there is a violation of that campus' publication guidelines. (3) If there appears to be a violation, it must be referred to the publication board or group designated to handle such matters. (4) If that board does not act within three weeks, the chancellor is to take what action he thinks appropriate.

In explaining the new rules, Canaday said their objective is to produce newspapers that generally meet the

code of ethics of the American Society of Newspaper Editors. He said, "There is no intention to precensor any student publication. That is outside our legal responsibility . . . and in my judgment it is properly so."

Ann Haskins, student editor of UCLA's *Daily Bruin*, said that "postcensorship could be inferred from this, and that is as dangerous as precensorship."

Student papers in California, however, are not the only targets of criticism and various forms of censorship. According to a recent College Press Service report, twenty-five "overt acts of censorship" against campus newspapers have occurred since the start of the current school year. Among incidents cited in the report are the shut-down of papers at two schools, Dillard University and Norfolk State, when editors refused to submit copy to a faculty advisor for prepublication approval, and actions taken against Niagara University's *Index* and Concordia College's *Concordian* because of ads for abortions.

In an enlightened approach, the Mississippi state college board, in December 1970, dropped a policy that had placed faculty editors over campus newspapers. By a vote of 6 to 5, the board approved giving student editors a free hand in determining content of their publications. The board took action at the request of University of Mississippi Chancellor Porter Fortune who had voiced fear that the old policy would hurt academic accreditation. Reported in: *San Diego Union*, January 22; *Austin American*, February 5; *New York Times*, December 6, 1970.

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"I am against censorship not because it is censorship, but because it is generally ignorant. I am against censors, because, all the time, they disgrace the theory of censorship in its soundest sense and make it objectionable even to the men who may be willing to grant its periodic integrity."

— George Gene Nathan

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©1970 MAULDIN  
 "LADY, WE DON'T MAKE THE NEWS. WE ONLY PEDDLE IT."

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## Maryland Censor Board Fate

The Maryland Board of Motion Picture Censors, after withstanding a U. S. Supreme Court test in a case involving *I Am Curious (Yellow)*, is now the subject of a legislative debate in the Maryland General Assembly. James J. Lombardi, delegate from Prince Georges County is sponsoring a bill calling for abolition of the board. A legislative subcommittee, in February, voted to delete a \$69,000 appropriation to keep the board operating another year.

Mrs. Mary Avara, one of the three women who make up the board, said the Supreme Court decision makes her confident that the board will be retained in some form. Lombardi acknowledged that a compromise will probably be reached authorizing retention of the board, but as a film rating body rather than as a censoring agency. Reported in: *Washington Star*, March 14.

## Veep Bleeps CBS

Vice President Spiro Agnew, addressing 1400 guests of the Middlesex Club in Boston, criticized CBS and accused the national newsmedia of "indifference" to earlier criticism of the network by a government agency and a congressional subcommittee. The Vice President took issue with the CBS documentary, "The Selling of the Pentagon," which was televised February 23, and which accused the Department of Defense of having subjected the public to a "propaganda barrage" at taxpayer expense. He said two of the CBS journalists who produced the program also took part in earlier network documentaries (one was "Hunger In America") involving questionable production and editing techniques.

Agnew denied that he seeks to "intimidate" journalists or broadcasters. He referred to the "widening credibility gap that exists between the national newsmedia and the American public." He proceeded to call "The Selling of the Pentagon" a subtle but vicious broadside against the nation's defense establishment." While he had no specific charges against the program, Mr. Agnew said it was subject to criticism because it was made by the same newsmen who wrote "Hunger In America," a documentary which he claims presented one "untrue" scene and others staged by the network. (Peter Davis was the writer, and Perry Wolff, producer of "Hunger in America.") Reported in: *New York Times*, March 19.

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