


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



IFC ALA

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**Law Suit  
Challenges  
Book  
Banning By  
School  
Board**

On April 19, the school board of District #25, Flushing, Queens, N. Y., voted 5 to 3 to ban from district junior high schools *Down These Mean Streets*, by Piri Thomas. Generally acclaimed by reviewers when it was published in 1967, *Down These Mean Streets* is an autobiography that vividly depicts life and language in Spanish Harlem. Before the ban, copies of the book were reportedly in junior high school libraries in the district which covers Flushing, Whitestone, and College Point.

During the six-hour meeting on April 19, sixty-three persons spoke concerning the book. Sixty-one favored retention of the book. According to the *New York Times*, most of the audience of over 400 appeared to support the book.

Among those who testified was the author, who said, "I'm not here to defend the book. I'm here to defend the right of the truth to be said." Also giving testimony was David Cohen, a member of the American Library Association Intellectual Freedom Committee and chairman of the New York Library Association Intellectual Freedom Committee. Mr. Cohen spoke of the need for following the established procedure for review of allegedly controversial books. He said that without following such a procedure, "an arbitrary decision about withdrawing books from the school library is outright censorship." Mr. Jack Deblinger, a representative of Alfred Knopf, publisher of the book, also presented a statement prepared in part from materials provided by the American Library Association Office for Intellectual Freedom.

Subsequent to the board's decision to ban the book, the New York Civil Liberties Union filed suit in federal court in Brooklyn to challenge the board's action. The plaintiffs — parents, teachers, students, and a librarian — allege that the board's decision violates the First, Fourth, Fifth, and Fourteenth Amendments to the U. S. Constitution. They asked the court to declare the resolution banning the book to be unconstitutional and requested an injunction ordering school officials to restore the book to school libraries. Judge Jacob Mishler signed a show cause order and scheduled a hearing for May 24. That date was later changed to June 1 to allow the New York City Board of Education, which has review authority over district board decisions, to consider the action. JAH

ALA Intellectual Freedom Committee, Chairman, Richard L. Darling  
(Dean, School of Library Science, Columbia University)

# The Library Wins One! A Firsthand Account

Kathryn Wilmer

[Mrs. Wilmer is branch Librarian, Cuyahoga County Public Library, Brecksville, Ohio]

This past spring, our staff planned a special display because, as soon as the sap starts flowing, people become restless and their thoughts often turn to love and social injustice. We wanted a display that presented controversial issues and invited comment. Doug Zachowski, a sixteen-year-old local artist, constructed an eight-foot tall kiosk covered with bright felt. Perched on top of the display was a sign which said "Who cares what you think?" We tacked news clippings and pictures about current issues onto the board and posted names and addresses of public officials so that interested persons could write letters. We also provided stationery, pens, and envelopes. Part of the board was left blank with the hope that some interesting graffiti would find its way there and give us a bird's-eye view of the modern young mind at work.

The first part of the month, the display was a total flop, but, gradually, interest developed and comments grew longer and livelier — especially comments concerning the Vietnam war. My staff and I had developed "hardboiled eyes" from observing trends in current language usage. It came, then, as a complete surprise when the editor of our local newspaper came into the library and told me that a local woman — a member of the Anti-Sex Education in the Schools Committee — had telephoned him and voiced a severe complaint about our opinion board. He and I had always been on informal terms and so when he talked with me about the issue of censorship and obscenity, I had no idea that it was an "interview." He left me with the parting comment that if I did not censor those opinions, he would "be forced to write an editorial about it."

It seemed to me that the editor felt he had hit upon a way to make a name for himself and come out smelling like roses. In my mind, I thought that if I allowed one editor and one woman's complaint to infringe on the library's standards of intellectual freedom, a long chain of other dictators would follow, each with his own literary preferences. I decided to take a stand early in the game, so I told him never to presume to tell me what I could or could not do in my library.

My seemingly self-assured statement must have set off a small bomb somewhere in his mind, because that Thursday we were not only an editorial. We were front page news! The article was entitled "Vulgarity is valid expression in Brecksville Library." The opening was my comment to the effect that in a community where *Portnoy's Complaint* was the most popular book, it would be

hypocritical to censor our opinion board. The Brecksville and Broadview Heights communities both blew sky high. People who had never come before came pouring into the library. The graffiti dialogue on the board grew and grew. Letters to the editor came with every delivery. A second newspaper took our side and war was declared.

SAMPLE DIALOGUE (newspaper and graffiti board):

"Fighting for peace is like screwing for virginity."

"War is good for freedom."

"I feel that the use of bad language in this experiment impedes its progress."

MEMO: Mrs. Wilmer. Mr. Craig came in and tore up everything that had a four-letter word on it. He left it all on your desk "for you to enjoy."

"Your bulletin board is perhaps the most moral patch of *terra firma* in this community."

"I applaud your stand on the role of a public library — continue to defend it!"

"What will you bring next into your library? Maybe you could get some obscene movies that would serve an even better 'function of representing all life styles and attitudes.' We rate you 'X' too."

"War is good business. Invest your son!"

"Mrs. Wilmer is trying to turn Brecksville into a slum."

"This board is one of the best ideas to ever happen in Brecksville."

*The "dialogue" was very hot indeed.*

The newspaper had also quoted me as calling the Brecksville Branch "my" library. Many people called me on the carpet about that statement and reminded me that it is their library. Frankly, I couldn't have thought of a better way to make the public stand up for their library rights. So I tried to take advantage of the accidental. Suddenly the town librarian was in the public eye. There seemed to be no escape from people's glances as they approached me in the supermarket or the local restaurant either to "chew me out" or to embrace me — one old woman really did embrace me and said, "Please stay in our town. We need outspoken people like you."

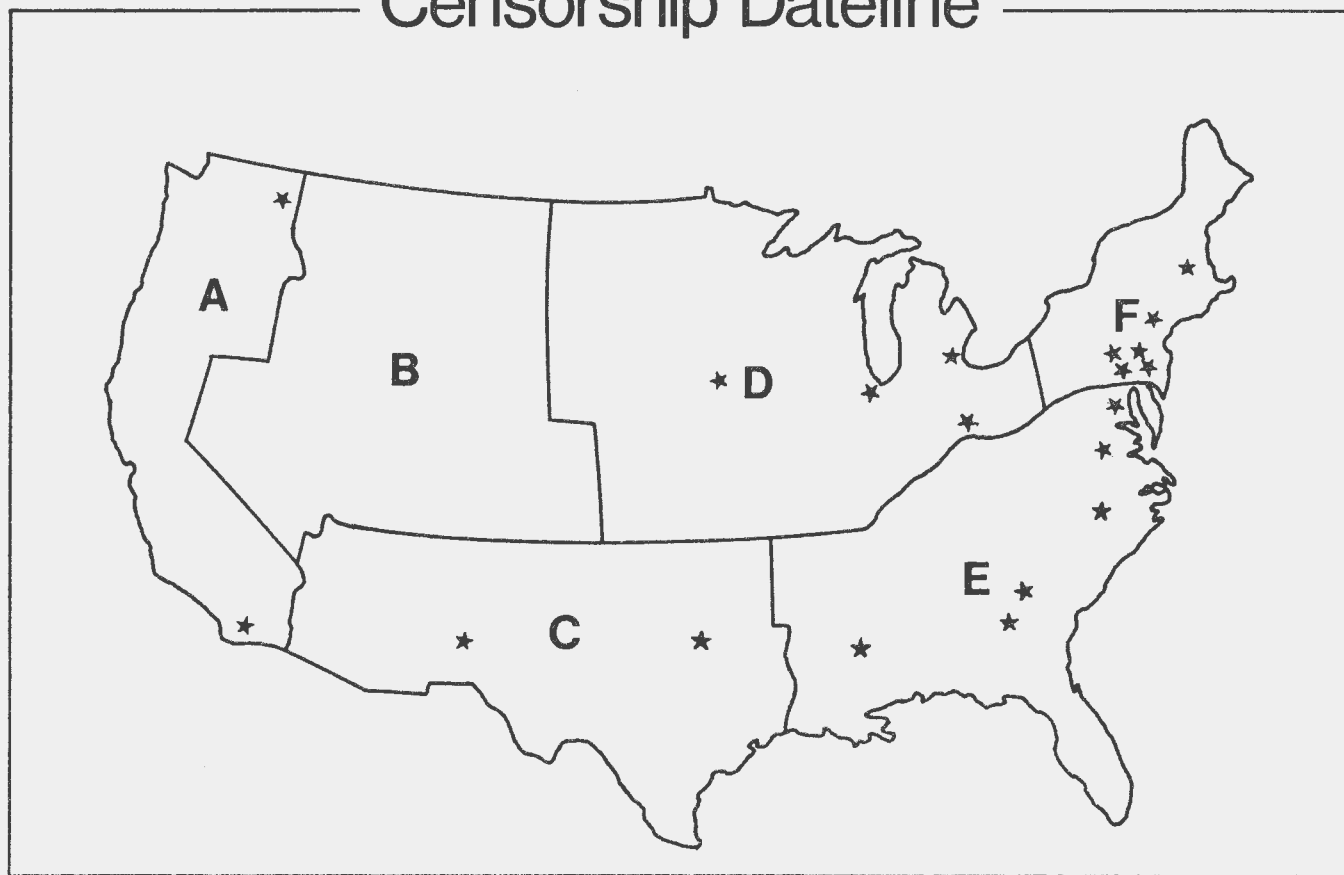
*(Continued on page 97)*

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# Censorship Dateline



## PACIFIC COAST STATES (A)

### Orange County, Cal.

At the urging of Dr. Dale E. Rallison, a board member, the Orange County board of education voted 4 to 0 to ban from school libraries *Marching to Freedom*, by Dr. Martin Luther King, and *Daybreak*, by Joan Baez. Dr. Rallison, a member of the John Birch Society, objected to the books because Dr. King was a "conscious supporter of communism" and Baez is a "radical." Reported in: *Los Angeles Times*, May 26.

### Spokane, Wash.

The *Seattle Times* reports that R. Bruce Carrick, head librarian at the Spokane Public Library, says storing of "certain explicit books away from the public" is practiced "because this is a conservative city." Carrick was quick to add that this is not censorship. "All the books, even the ones on sex, are in the catalog and when people want them, we go to the basement and get them." He said at other times "a book is conveniently out." Reported in: *Seattle Times*, April 1.

## SOUTHWESTERN STATES (C)

### Shiprock, N.M.

Navajo Indian parents staged a sit-in at the Shiprock school administration building to persuade the school system to stop using a textbook that describes Indians in the Old West as "savage barbarians." Reportedly, the protestors were successful in having use of the book discontinued. Reported in: *Baltimore (Md.) News American*, May 14.

### Stillwater, Okla.

The Oklahoma State University Library at Stillwater adopted a policy which says circulation records shall not be made available "to any individual, or agency of state, federal, or local government unless there is abundant evidence that a crime has been, or is about to be, committed which has involved the use of library materials." According to Head Librarian Roscoe Rouse, the only instance concerning the revealing of records at OSU was in the bombing of Safety and Security Headquarters last fall. "Some books on bomb making had been stolen



which were government manuals. Within a week or 10 days, a bomb had been thrown at the Safety and Security office," he said. Rouse said he called the Safety and Security office when the books on bomb making had been stolen. "The names on check-out cards give Safety and Security leads that could aid in avoiding crimes," Rouse said. [The Oklahoma Library Association recently adopted the American Library Association's recommended Policy on the Confidentiality of Library Records. An amendment similar to Rouse's policy for OSU was defeated by OLA.] Reported in: *OSU Daily Collegian*, April 22.

## MIDWESTERN STATES (D)

### Rochester, Mich.

Bruce Todd, an Oakland Township board of education member, filed suit against the Rochester Community Schools in Oakland County Circuit Court seeking to ban Kurt Vonnegut's *Slaughterhouse Five* from classroom use. Todd charged that the book degrades the person of Christ, and that such degradation violates the First and Fourteenth Amendments. The book was used as supplemental reading in an elective contemporary literature class. Michael Charboneau, attorney representing the schools, referring to a U. S. Supreme Court decision concerning school prayers, said, "The decision would interpret the novel as being acceptable for classroom use as long as it is used for a secular . . . purpose only, whose primary effects neither advance nor prohibit a specific religion." Oakland County Circuit Court Judge Arthur Moore ruled that the book is anti-Christian and should be banned from the high school. School officials plan to appeal the decision. Reported in: *Rochester Clarion*, April 1; *Chicago Daily News*, May 18.

### Cincinnati, Ohio

Susan C. Richmond, an English teacher since 1956 and an advocate of an "open classroom," told the Cincinnati School Board she will teach "any book I feel is appropriate to the course." She objects strenuously to a new policy which sets up three levels of review for books teachers want to use in classrooms: the school's own English department, a city-wide committee comprised of about twenty-two teachers, and the school board for final approval. Mrs. Richmond disapproves of the policy because, "Some teachers feel that since four-letter words are in it and certain allusions to sexual incidents, they can't handle the book before a class. They seem to think that if they can't handle it, no other teacher can handle it either. I don't feel I have the right to say another teacher might not try." Reported in: *Cincinnati Enquirer*, March 26.

### Calumet City, Ill.

Mrs. Clara S. Brubaker, John W. Brubaker, and Ronald K. Sievert, all fired by the Calumet City School District #149, filed suit in U. S. District Court seeking

\$300,000 damages and back pay totalling \$10,000. They were fired by the district's board of education on May 4, 1970, for distributing Woodstock music festival pamphlets to students. The board said the literature "was of an obscene and suggestive nature, which promotes a viewpoint contrary to requirements of the laws of Illinois in regard to teaching about the harmful effects of alcoholic drink and narcotics." Mrs. Brubaker said the Woodstock pamphlets, describing rock artists appearing at the 1969 festival and the making of the film *Woodstock*, were distributed because they were "more current to student interests and helpful in what they were studying." Reported in: *Chicago Today*, April 23.

### Sioux City, Ia.

George Barta, a parent and part Sioux Indian, filed a formal complaint with the school district concerning *Hawkeye Tales*, a book used in Sioux City elementary schools. Barta claims the book by Hubert L. Moeller presents a derogatory and inaccurate picture of Indians and could "plant discriminatory attitudes against Indians in the minds of students using the book." The complaint was referred to a review committee chaired by Miss Marie Haley, supervisor of libraries for the district. A recommendation will be made by the committee to the superintendent of schools. This is the formal procedure the school district uses whenever instructional materials are challenged. Reported in: *Sioux City Journal*, March 23.

## SOUTHERN STATES (E)

### Sandy Springs, Ga.

School officials withdrew an invitation extended to Julian Bond to address a small group of honor students at Sandy Springs High School. Reportedly, the address was cancelled in an attempt to avoid a public controversy. Approximately 700 students of the all-white school signed a petition of apology to Mr. Bond. He said, "I don't feel too bad about it. I've been ejected from worse places by better people." Reported in: *New York Times*, May 16.

### Montgomery County, Md.

Over opposition from the local Parent-Teacher Association, the Montgomery County school board upheld the right of students at Rockville's Robert E. Peary High School to hear militant anti-war speakers at a student-sponsored seminar. In a 4-to-2 vote, the board supported Deputy Superintendent Donald J. Miedema, who ruled that the students could hear three speakers from the Student Mobilization Committee at a seminar on May 18, part of a series of student workshops. Miedema's action overruled Principal Fred L. Dunn, Jr., who banned the Mobilization Committee's speakers, because "What they have done in the past and what their literature indicates is that they want youngsters to leave classes

to participate in demonstrations. They advocate illegal action, and I don't think a school should be a platform for activity that is illegal." The three speakers were identified as Tex Exelowski, Kathy Huntley, and Dale Brown. Subsequently, the three speakers were barred by a last-minute court order issued by Circuit Court Judge Joseph M. Mathias. Judge Mathias issued the order on the petition of six parents who claimed that the speakers, in violation of state law, "would counsel, encourage, and urge the students to deliberately refrain from attending classes," and that they would inform students "that they have the constitutional right to strike insofar as attendance is concerned." That charge directly contradicted previous Student Mobilization pledges. Reported in: *Washington Post*, May 12, 19.

#### **Greenville, S.C.**

Robert Thonen, editor of *The Fountainhead*, East Carolina University's student newspaper, was suspended indefinitely by a campus disciplinary board because he allowed publication of "abusive language." The charge resulted from a letter that appeared April 1, attacking University President Leo Jenkins. Reported in: *Raleigh News and Observer*, May 10.

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

Without passing on the merits of challenged photographs of nudes, a four-man committee ruled that the pictures may continue on display at Memphis Academy of Arts in Overton Park. A hearing was held in response to a complaint from Newton C. Estes, a city resident, who visited the academy with three children and said the pictures were pornographic. The committee's decision was prompted by consideration of the academy's accreditation by the Southern Association of Colleges and Schools and the National Association of Schools of Art. Subsequently, a gunman kidnapped the 14-year-old son of a professor at the Academy and held him captive until his demand that the four pictures be removed was met. The boy, Richard Edward Batey, was released unharmed after his father confirmed on television and radio that the pictures had been taken down by academy officials. Reported in: *Memphis Press Scimitar*, March 22; *Philadelphia Bulletin*, March 26.

#### **Richmond, Va.**

A coalition of civil rights groups was successful in persuading the management of the Broad Street Cinema II to cancel a scheduled showing of D. W. Griffith's classic *Birth of a Nation*. The coalition, including the state and Richmond branches of the NAACP and the Richmond Council on Human Relations, claims the film promotes racism. Reported in: *Richmond Times-Dispatch*, May 14.

#### **Williamsburg, Va.**

College of William and Mary President Davis Y. Paschall established an 11-member student, faculty, and

staff committee to study the status of the student paper, *The Flat Hat*. The committee was appointed in the wake of a controversy over an issue containing allegedly obscene language. Subsequently, the college publications committee ruled that the issue did not violate standards of good taste. The board of student affairs concurred in the finding. Paschall's committee is to recommend means by which the administration can enforce "standards of good taste and responsible reporting," or a way in which *The Flat Hat* can be made financially and legally independent of the college. Reported in: *Richmond Times-Dispatch*, April 9.

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

#### **Northampton, Mass.**

Police Chief James Whalen threatened to file a criminal complaint against the school committee unless it removes Claude Browne's *Manchild in the Promised Land* from use in a black history course. Whalen says the book is "pornographic literature" and contains "428 incidents of impure words." He said the book violates state laws dealing with pornographic literature. Reported in: *Daily Defender*, May 25.

#### **Roselle, N.J.**

The board of education approved a policy regulating distribution of student publications which do not have school sponsorship. The policy is in response to *The Alternative*, an underground newspaper which appeared at the high school in April. The policy limits distribution to the sidewalk and parking lot between 8:00 and 8:20 a.m. and 3:10 to 3:30 p.m. A copy must be submitted for approval one day before publication. Unacceptable items include "hate literature," "irresponsible articles," and "pornography." Reported in: *Elizabeth Journal*, May 13.

#### **Carmel, N.Y.**

In response to parental objections, school district administrators are re-evaluating the book *The Pre-School Years*, used in home economics classes. Prepared and distributed by the New York State Department of Health, the book contains a section on masturbation which closely follows a similar essay in a Boy Scout handbook. Some thirty-five parents attended a meeting of the board to protest "sex education," including, in addition to complaints about the booklet, a demand for an explanation of a discussion concerning contraceptive devices during a recent 10th-grade science-class discussion. Assistant Superintendent James O'Connell is checking parents' complaints about the booklet and will report to the board of education with recommendations at the next meeting. Reported in: *Putnam Courier*, March 17.

## Poughkeepsie, N. Y.

Vincent Tasciotti, Americanism chairman of the Pleasant Valley American Legion, presented a petition signed by about fifty persons asking that Austin Bentley, a suspended Arlington School District sixth-grade teacher, be fired for "conduct unbecoming to a teacher." Bentley was accused of distributing copies of *Common Sense*, a controversial newspaper, on Main Street in Poughkeepsie. At a hearing before a three-man panel appointed by the state board of education, Tasciotti said the Legion is dedicated to upholding the U. S. Constitution against enemies, both foreign and domestic, and perpetuation of 100 percent Americanism. He objected to *Common Sense* articles supporting Angela Davis and condemning American education. Bentley was represented at the hearing by Stephen E. Bass, a White Plains Civil Liberties Union attorney. Tasciotti said, "The people who put out that rag have a right to print it, but a teacher has a responsibility to the children he's teaching, the educational system, and the parents." After testimony from several persons, the hearing was adjourned until a later date. The panel was charged with reporting its findings to the state board of education after completion of the hearing. Reported in: *Poughkeepsie Journal*, March 21.

## Philadelphia, Pa.

Station WPHL-TV, Channel 17, cancelled a widely advertised half-hour show, *The Passover*, described as a "magnificent . . . color telecast for people of all faiths." In a public statement, the station's management said, "We have decided not to air the program . . . . It was felt the program would be offensive to a significant portion of the community served by Channel 17." Producer of the program was the American Board of Missions to the Jews, a group dedicated to converting Jews to Christianity. The program was cancelled after the station received letters and phone calls from lay members of the Jewish community, the New York Board of Rabbis, and the Synagogue Council of America. [The program was reported cancelled also in St. Louis by KPLR-TV and in Chicago by Channel 44.] Reported in: *Philadelphia Inquirer*, April 3.

## Philadelphia, Pa.

Channel 12 television station cancelled a scheduled showing of a documentary on atheist Madalyn Murray O'Hair. According to Warren A. Kraetzer, general manager of the station, the program was cancelled because it was believed that Mrs. O'Hair made serious, unsubstantiated allegations concerning the financial relationship between the Roman Catholic Church and several state governments. Mrs. O'Hair is known primarily for her unsuccessful efforts to find legal means to force churches to pay taxes. Reported in: *Philadelphia Bulletin*, May 14.

# Titles Now Troublesome

## Books

- Black Is My Favorite Color*, p. 96.
- The Cool World*, p. 96
- Daybreak*, p. 83
- Down These Mean Streets*, pp. 81, 96.
- Hawkeye Tales*, p. 84.
- Hog Butcher*, p. 96.
- The Learning Tree*, p. 96.
- The Love Book*, p. 87.
- Manchild in the Promised Land*, p. 85.
- Marching to Freedom*, p. 83.
- The Me Nobody Knows — Children's Voices From the Ghetto*, p. 95.
- The Pre-School Years*, p. 85.
- Slaughterhouse Five*, p. 84.
- To Kill A Mockingbird*, p. 95.

## Periodicals

- The Alternative*, p. 85.
- The Ayerard*, p. 96.
- Common Sense*, pp. 86, 89.
- The Flat Hat*, p. 85.
- The Fountainhead*, p. 85.
- The Reflector*, p. 89.
- Richmond News Leader*, p. 89.
- Screw*, p. 89.
- Stanford Daily*, p. 92.

## Movies

- Bananas*, p. 90.
- Birth of A Nation*, p. 85.
- He and She*, p. 89.
- Ryan's Daughter*, p. 90.
- Sweet Sweetback's Baadasssss Song*, p. 91.
- Vanishing Point*, p. 90.
- Woodstock*, p. 84.

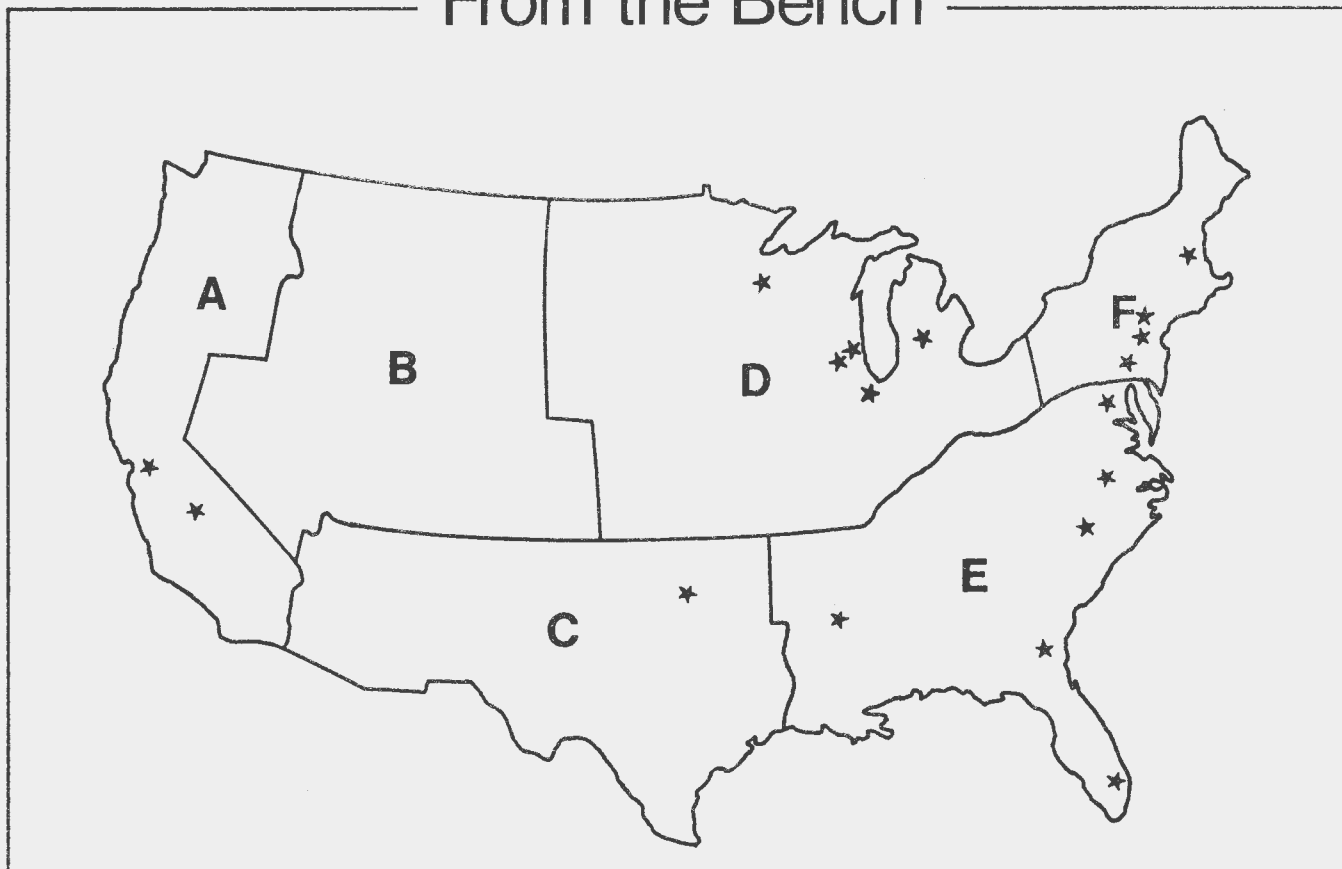
## Songs

- The Battle Hymn of Lt. Calley*, p. 97.

## Television Programs

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- Oh! Calcutta!*, p. 92.
- The Passover*, p. 86.

## From the Bench



### PACIFIC COAST STATES (A)

#### Fresno, Cal.

Federal District Court Judge M. D. Crocker dismissed civil suits brought by operators of three adult theaters challenging the constitutionality of California's obscenity laws. In dismissing the suits, Judge Crocker relied on a February 23, 1971, U. S. Supreme Court ruling which, in effect, forbids federal courts from intervening in cases pending in state courts except under certain conditions. Reported in: *Fresno Bee*, March 30.

#### San Francisco, Cal.

Federal District Court Judge Alfonso J. Zirpoli vacated the conviction of Allen Cohen, who was found guilty in 1967 of selling obscene matter, *The Love Book*. Judge Zirpoli cited a faulty instruction by Municipal Court Judge Lawrence S. Mana as the basis for overturning Cohen's conviction. Judge Mana told the jury that, in deciding whether *The Love Book* was obscene, it should determine if "the average person applying contemporary community standards would conclude that the matter is utterly without redeeming social import-

ance." Judge Zirpoli said this instruction "falls short of the ruling of the U. S. Supreme Court," which said, "All ideas having even the slightest redeeming social importance . . . have the full protection of the guarantees [of the First Amendment.]" Judge Zirpoli wrote that, "under this test, it is clear that there are no restraints on the redeeming social importance test. It is not modified by either the 'average man' standard or the 'contemporary community standards' standard . . . . It is an element standing alone, and, in and of itself, is intended to protect those works beyond the understanding of the average man and unembraced by the morals of the day . . . . Without its protection, serious works ahead of their time might fall victim to the censor." Reported in: *San Francisco Chronicle*, April 9.

### SOUTHWESTERN STATES (C)

#### Oklahoma City, Okla.

District Judge Charles L. Owens sentenced W. E. McCrary, a Lawton book dealer, to ten years in prison and a \$500 fine for distributing obscene literature. Owens' conviction is the first in more than a dozen cases

initiated by District Attorney Curtis P. Harris in a long-running effort to rid Oklahoma City of adult movies and bookstores. Two days after the conviction, Harris and deputies began burning more than 5,000 books and magazines seized from three adult bookstores in earlier raids. Reported in: *Oklahoma City Journal*, May 12; *The Daily Oklahoman*, May 14.

## MIDWESTERN STATES (D)

### Rock Island, Ill.

U. S. District Court Judge Robert D. Morgan ruled Charles P. Smith guilty of obscene radio transmissions over citizens' band (CB) radio channels. The obscenities were allegedly broadcast during a party held at Smith's house on September 28, 1968. Federal Communications Commission employees testified as to how they located and made tape recordings of what were termed "profane, obscene, and indecent" broadcasts traced to Smith's house by means of direction-finding equipment. Conviction on the charges carries a maximum penalty of \$10,000 fine, two years in prison, or both. Reported in: *Davenport (Ia.) Times-Democrat*, May 7.

### Hammond, Ind.

U. S. District Court Judge George N. Beamer dismissed a suit filed by Vernon Starr, manager of the Indiana Theater, against the City of East Chicago and the State of Indiana. Starr had sought a finding that city and state obscenity statutes are unconstitutional. Judge Beamer, in dismissing the suit, cited a February 23rd U. S. Supreme Court ruling which effectively bars federal courts from entering criminal obscenity cases before they have exhausted the state judiciary system. Reported in: *Gary Post-Tribune*, March 23.

### Grand Rapids, Mich.

District Court Judge Woodrow A. Yared convicted Floyd T. Tinkle for shouting an obscene chant in a crowd outside the Civic Auditorium where Vice President Agnew was speaking at a Republican Party fund-raising dinner last September 16. Joel A. Clark was found innocent of similar charges because, said Judge Yared, "His remark was merely a spontaneous expression resulting from the fact that two police dogs used to control the crowds were growling and snarling a few feet away from him." Tinkle's comment, however, the Judge said, "is not like something that is on radio, TV or in a book that the general public could turn off or on." Tinkle was fined \$50 and assessed court costs of \$50. Reported in: *Grand Rapids Press*, March 26.

### Minneapolis, Minn.

Hennepin Municipal Judge Herbert Wolner convicted Joseph A. Welke and sentenced him to ninety days in jail and a \$300 fine, the maximum for exhibiting obscene materials. The judge's opinion said, "The aver-

age person applying contemporary standards in Minnesota (where a valley of virtue is sought to be preserved in harmony with the biblical warnings and illustrations, and the historical warnings depicted by the fall of Sodom and Gomorrah and Rome, and the local conduct warnings depicted in the attached complaint) would deem as obscene the mind pollutant pictorial garbage submitted to the court in this case." Reported in: *Minneapolis Star*, April 16.

### Milwaukee, Wis.

Federal District Court Judge Robert E. Tehan dismissed a suit brought by Robert A. Brown challenging the constitutionality of a section of Wisconsin's obscenity statute that makes possession of obscene material a crime. In 1969, Brown was found guilty under the statute by a county judge. Citing the U. S. Supreme Court decision in *Stanley vs. Georgia*, Brown filed suit in federal court. Judge Tehan, however, cited a February 23, 1971, Supreme Court ruling which forbids federal court intervention in state criminal prosecutions. Tehan ruled that Brown's case does not present the "exceptional circumstances" required for federal court intervention. As a result of the Supreme Court ruling, Federal Judge John W. Reynolds recently dismissed two other obscenity suits on the same basis. Reported in: *Milwaukee Journal*, April 7.

## SOUTHERN STATES (E)

### Washington, D.C.

The D. C. Court of Appeals found James J. Kaplan guilty of obscenity charges in a case involving operation of a "peep-show." In so ruling, the court said such movie reels may be seized without an adversary hearing to determine obscenity. Reported in: *Washington Post*, May 14.

### Miami, Fla.

Circuit Court Judge Raymond G. Nathan upheld the constitutionality of Miami's anti-obscenity ordinance and prohibited at least one theater from showing films "which graphically portray genitalia in combination with sexual intercourse, various acts of sodomy, homosexuality, bestiality, or sadomasochism, whether actual or simulated." Referring to U. S. Supreme Court standards defining obscenity, the judge said, "although not literally present in the ordinance, [the standards] are to be implied when the ordinance is applied." Movies found obscene in the case involving the Little Beaver Theatre, Inc., were *Married Bachelors*, *Computer Game*, and *The Fur Piece*. Reported in: *Miami Herald*, April 10.

### Brunswick, Ga.

U. S. District Court Judge Alexander A. Lawrence dismissed an appeal brought by Annie C. Gornto challenging the constitutionality of Georgia's obscenity laws. Judge Lawrence cited the U. S. Supreme Court's Febru-



ary 23rd ruling and said Mrs. Gornito failed "to state a claim for federal intervention." Reported in: *Savannah News*, March 18.

#### **Greenville, Miss.**

Federal District Judge William C. Keady denied a request by Grady Thurman for an order reinstating him as editor of the Mississippi State University *Reflector*. Earlier this year, the student senate removed him from office for publishing "objectionable materials." (See *May Newsletter*, p. 62.) In denying the request, Judge Keady upheld the student senate's action. Reported in: *Memphis Commercial Appeal*, March 17.

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

A three-judge panel of the State Court of Appeals, composed of Judges William E. Graham, Jr., Naomi E. Morris, and Walter Brock, ruled that R. C. McCluney, Sr., convicted under a state obscenity statute, "received a fair trial, free from judicial error, and that he was convicted under a statute that is free from constitutional defect." In January, a federal court panel had struck virtually all of the 1957 statute. The state court, however, said it was not bound to follow the federal panel's decision, "since lower federal courts and state courts have the same responsibility in passing on federal constitutional questions and both sets of courts are governed by the same reviewing authority of the Supreme Court of the U. S." Reported in: *Raleigh News and Observer*, April 30.

#### **Richmond, Va.**

U. S. District Judge Robert R. Merhige, Jr., rejected a request from Attorney JeRoyd W. Green, Jr., to ban publication of four articles dealing with the "Black Manifesto" in the *Richmond News Leader*. Greene contended the articles would be prejudicial to a case he is trying before a federal court jury on July 12. Judge Merhige ruled that freedom of the press outweighs claims of possible jury prejudice against Greene's client. Reported in: *Richmond Times-Dispatch*, May 20.

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

#### **Stoneham, Mass.**

Suffolk Superior Court Judge Francis J. Good decried U. S. Supreme Court decisions that "protect pornographers" and refused to halt revocation of the Stoneham Square Theater's license. The theater was closed by selectment for showing allegedly obscene films. Judge Good said, "Everyone knows these movies are obscene. The patrons know they are obscene. The producers know they are obscene. The only ones who don't are the judges." Judge Good, a former FBI agent, said, "We went 150 years without all these outrageous opinions and all this pornography and now we are buried in this filth and they say we are better off for it." Reported in: *Boston Herald-Traveler*, March 31.

#### **Hackensack, N.J.**

A three-judge federal panel composed of Judges John J. Gibbons, Robert Shaw, and Leonard Garth refused to rule on the constitutionality of New Jersey's obscenity statute, thus returning to the Bergen County courts a case involving the movie *He and She*. The panel cited a February 23rd U. S. Supreme Court ruling ordering federal courts not to interfere with local cases before prosecution. Reported in: *Passaic Herald-News*, April 6.

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

A three-judge panel in New York City's Criminal Court found *Screw*, a well-known sex tabloid, to be obscene. The decision specifically cited ads offering dildoes and other sex paraphernalia, and classified ads soliciting participants in sex acts that "clearly violate New York's penal law." Publisher Jim Buckley and Executive Editor Al Goldstein received fines of \$1,500 apiece. So, *Screw* did away with dildo display ads and printed a notice to all would-be users of its classified columns that henceforth it "can no longer accept personal ads which solicit persons to break the law. We will still accept personal ads, but they must be phrased in such a way as not to compromise the integrity of *Screw* or the integrity of the law, as ridiculous and unfair as that may be." Reported in: *Time*, April 19.

#### **Poughkeepsie, N.Y.**

State Supreme Court Justice Joseph F. Hawkins issued an injunction banning further distribution of *Common Sense* to minors under 17 within the school or grounds of Arlington Senior High School or any other public school. Justice Hawkins said that he found that the matter in issue #3 of *Common Sense*, "which can be deemed to have redeeming social value does not suffice to overcome the definitions of indecent materials to minors defined by the state penal law and thus is subject to injunctive relief . . . . The law has had an unending, profound concern that unconstitutional restraints not be imposed upon the young lest their education and quest for knowledge be stifled or stultified. However, there abide the solicitude of parents and the state that the young not be corrupted educationally and, particularly so, by presumably mature adults." Reported in: *Poughkeepsie Journal*, April 14.

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### **And The Other 51 Weeks?**

Governor Frank Licht proclaimed the week of April 24-30 as "Week of Decency" in Rhode Island. In his proclamation, the governor said, "Pornography and smut have become an increasing menace to the moral well-being of our young people. The undermining effect of this type of publication casts a shadow on the idealistic virtues with which youth is naturally endowed." Reported in: *Providence Visitor*, April 23.

## Second Prize?

The ACLU recently conducted a high school writing contest on the subject: "The Bill of Rights: Is It for Real?" The following is the second prize entry of Eric Crist of Essexville, Michigan:

A few weeks ago  
I got a book  
from the library  
that told about  
the Bill of Rights.

I read the section  
about freedom of speech  
while I was waiting  
to see the principal  
because I had distributed  
an "underground newspaper."

I read the section  
about freedom of the press  
after I was threatened  
with suspension from school  
if I wrote another article  
for the local newspaper  
without the approval  
of the administration.

I read the section  
about cruel and unusual punishment  
the day I was kicked out of school  
because of the length of my hair.

As I read the section  
about the right  
to petition for redress of grievances,  
the T.V. showed films  
of cops using clubs  
to break demonstrators' heads.

I started the section  
about unreasonable search and seizure  
but after I had seen a newspaper article  
about a law authorizing  
police to enter houses  
in certain cases  
without warning the occupants,  
I decided I had read enough,  
so I closed the book  
and took it back  
to the library  
where I put it  
on a shelf marked:

FICTION

From: *Liberated Librarians' Newsletter*, March 29.

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"Courage and wisdom have to come from life itself. But books can point the way. And when a book is written that does, I don't intend to stand by and see it lynched." — Max Lerner

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## Church Groups Berate Ratings

In a joint statement, the Broadcasting and Film Commission of the National Council of Churches and the National Catholic Office for Motion Pictures announced they have withdrawn their support from the Motion Picture Association of America's rating code. The main reason given for the action was that the GP rating (all ages admitted, parental guidance suggested) is unreliable. They questioned GP ratings of such films as *Bananas*, *Ryan's Daughter*, and *The Vanishing Point*. In an interview, representatives of the two groups said the ratings "place too much weight on overt visual sex and not enough on the implicit exploitation of sex and the overall impact of violence and other anti-social aspects of the film on the child." Reported in: *New York Times*, May 19.

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"I say to the self-appointed censors of education: Censor the schools and you convict yourselves by your very acts as the most subversive enemies of democracy. Censor education and you destroy understanding . . . you instate bias . . . you give free reign to prejudice . . . finally, you create facism. Nothing but an education in the whole of American life will build tolerant understanding in our people and guarantee the perpetuation of democracy."

— Harold Rugg

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## Sexually Oriented Advertising

As a result of challenges in federal courts to earlier published regulations on "sexually oriented advertising," the U. S. Post Office drastically revised its regulations. The revised regulations which took effect on May 5 incorporate three principal changes:

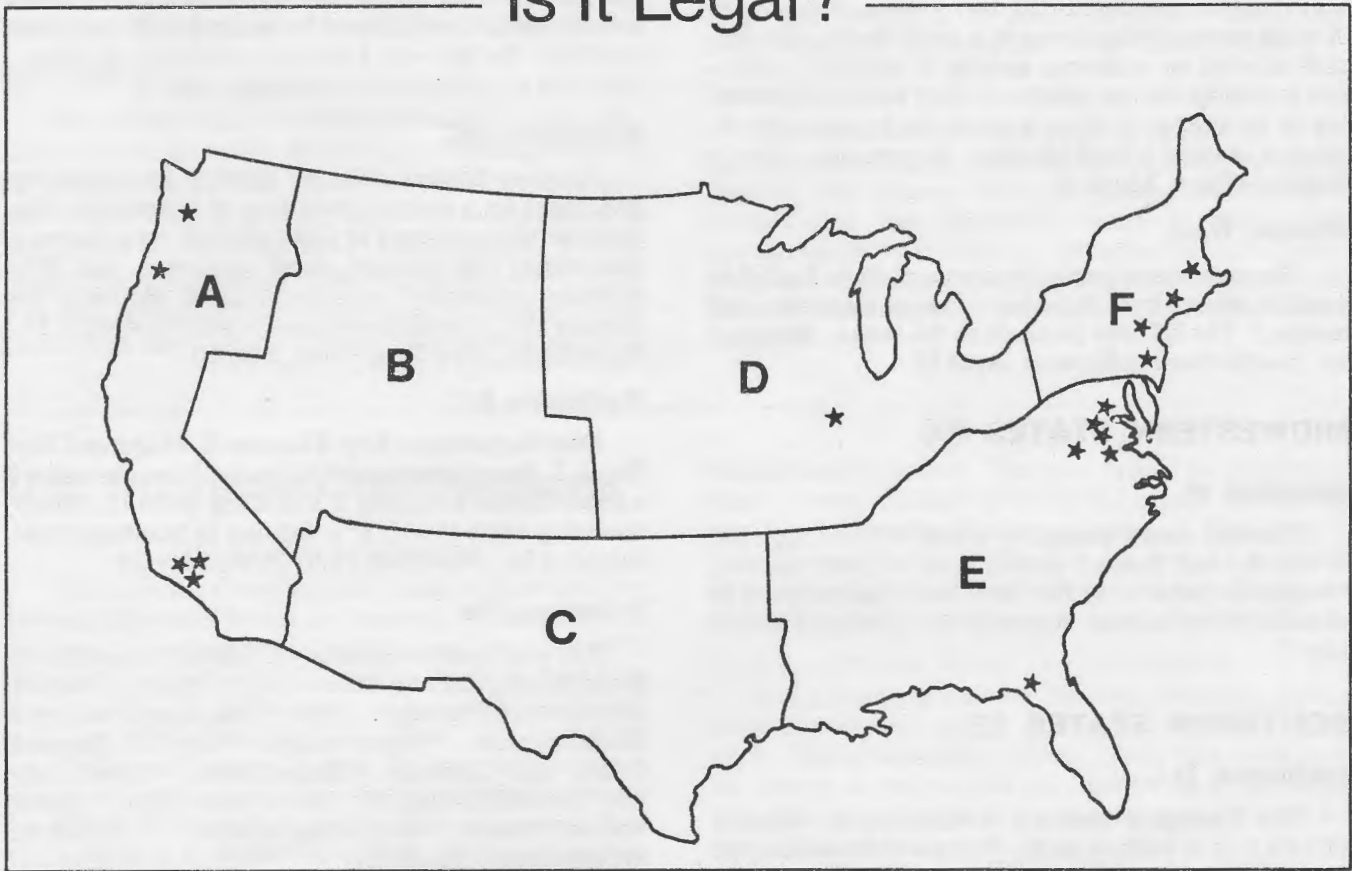
(1) Envelopes for materials containing sexually oriented advertising are no longer required to bear the words "sexually oriented ad" on the outer envelope or cover "if the contents of the mail piece are enclosed in a sealed envelope or cover, inside the exterior envelope or cover, which sealed envelope or cover bears conspicuously the words 'Sexually Oriented Ad';

(2) The price of the lists compiled by the Post Office of postal patrons who do not wish to receive sexually oriented advertising was modified; and

(3) It was made clear that this list need not be purchased and used by persons who mail "sexually oriented advertisements" only to those who have specifically requested them.

Reported in: *Washington Newsletter* (AAP), May 18.

## Is It Legal?



### PACIFIC COAST STATES (A)

#### Long Beach, Cal.

Using an "oral" search warrant, a form authorized late last year by the state legislature, sheriff's deputies seized allegedly obscene films from a parked camper in El Monte. The oral warrant procedure — a conference by telephone among police, district attorney, judge, and transcriber — is codified in section 1526b of the State Penal Code. Instructions to law enforcement officers and prosecutors specify "emergency use only when there is insufficient time to prepare a written affidavit or danger of destruction of objects of search." Reported in: *Long Beach Press-Telegram*, April 7.

#### Los Angeles, Cal.

Melvin Van Peebles notified the Motion Picture Association of America he will not submit his movie *Sweet Sweetback's Baadasssss Song* for review and will

sue if the X-rating is applied to his film because of his refusal. At a news conference, Van Peebles accused the MPAA of discrimination against blacks and censorship of black culture of which they have no knowledge. His attorney, Gerald Gottlieb, said he may charge in court that the rating system limits audiences and is a restraint of trade in violation of anti-trust laws. Eason Monroe, Los Angeles County ACLU Executive Director, said his group believes the rating system unconstitutional, and he welcomes Van Peebles' challenge as a vehicle to fight the issue in court. Reported in: *Los Angeles Times*, March 23.

#### Santa Monica, Cal.

The city council adopted a resolution soliciting fifty volunteers to picket adult theaters in an attempt to close them down. The resolution, adopted unanimously, provides that the city will purchase inexpensive cameras to take photos of those entering the movie houses to discourage attendance. Reported in: *Long Beach Press-Telegram*, March 11.

### **Eugene, Ore.**

In response to petitions bearing 700 signatures, presented to the city council by two women, objecting to X-rated movies being shown at a local theater, city officials enacted an ordinance making it unlawful for anyone to display obscene posters or other forms of advertising in an attempt to draw a crowd by implying the attraction or event is itself obscene. Reported in: *Eugene Register-Guard*, March 9.

### **Olympia, Wash.**

The state senate passed by a vote of 42 to 2 a bill to prohibit minors from "viewing salacious magazines and movies." The bill now proceeds to the house. Reported in: *Seattle Post-Intelligencer*, April 21.

## **MIDWESTERN STATES (D)**

### **Springfield, Ill.**

The state senate passed, by a vote of 33 to 10, a bill to ban R- and X-rated movies from outdoor theaters. Owners are liable to \$1,000 fines and a year in jail if in violation of the statute. Reported in: *Chicago Tribune*, May 7.

## **SOUTHERN STATES (E)**

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

The Recording Industry Association of America (RIAA), in a petition to the Federal Communications Commission (FCC), asked for withdrawal of a requirement that broadcasters take responsibility for prohibiting airing of song lyrics tending "to promote or glorify the use of illegal drugs." The RIAA said the March 5 rule violates the First Amendment by requiring broadcasters "to censor sound recordings, using vague and ambiguous standards." Reported in: *Washington Post*, April 6.

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

The Associated Press Managing Editors Association (APMEA) and the directors of the American Society of Newspaper Editors (ASNE) denounced the search warrant invasion by police of the *Stanford Daily* office in California on April 12. The police were reportedly seeking photographs and notes that might lead to the prosecution of individuals involved in a sit-in demonstration, resulting in twenty-two arrests, at the Stanford University Hospital. The APMEA protested the search as "an attack on freedom of the press." The ASNE statement called it "intolerable harassment" and said it "is a threat to the peoples' First Amendment rights." Reported in: *Washington Post*, April 17.

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

Senator Ed Gurney plans to introduce in the Senate a bill to allow each state to decide what constitutes hard-

core pornography, thereby limiting the role of the U. S. Supreme Court in such matters. He said, "Somebody's got to decide what smut is so we can keep trash out of our communities. I feel it should be decided at the local level and that's the best way I know to handle the problem." Reported in: *Orlando (Fla.) Sentinel*, May 1.

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

Attorney General John N. Mitchell announced the indictment by a federal grand jury of Colormedia Corporation, the producers of *Oh! Calcutta!*, on a charge of transmitting "an obscene, lewd, lascivious, and filthy videotape production" over closed-circuit television. (See January 1971 *Newsletter on Intellectual Freedom*, p. 14.) Reported in: *New York Times*, May 20.

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

Ohio Republicans Rep. Clarence E. Miller and Rep. Frank T. Bow introduced a bill in the House to make it a federal crime to display a Viet Cong or North Vietnamese flag while the U. S. is fighting in Southeast Asia. Reported in: *New York Daily News*, May 21.

### **Tallahassee, Fla.**

The state senate's Judiciary-Criminal Committee ordered the drafting of a bill creating "a board to take the steps necessary to wipe . . . filth off the screen" and from all other media. "Forget the fear of the U. S. Supreme Court," said Chairman William Barron. "Constitutionality notwithstanding, I'd like to take action," agreed Richard Fincher, a committee member. Reported in: *Miami Herald*, March 19.

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

### **Boston, Mass.**

In a 168-to-52 roll-call vote, the state House of Representatives outlawed public display of the Viet Cong flag. "It's up to us to say we don't want the flag of our enemies flown in Massachusetts," said Rep. Marie E. Howe. To no avail, Rep. Royal L. Bolling pointed out that flying the Viet Cong flag is as much a form of legitimate protest as displaying the Confederate flag, "which is done so boldly in this state." Reported in: *Woburn Times*, March 24.

### **Trenton, N.J.**

A proposed state obscenity law was approved by the assembly, 59 to 1. The bill protects minors (those persons under the age of 17) from all forms of pornography. However, it permits adults to read anything they desire, so long as the material does not contain hard-core pornographic illustrations. It forbids adults to view some explicit movies. The bill would repeal and replace all existing state obscenity laws. It avoids the use of words such as "prurient, lewd, obscene, lascivious, and lustful." Instead it provides explicit definitions of what is con-



sidered obscene. For example, it bans photographs, motion pictures, or drawings that show sadomasochistic abuse, sexual acts, or genitals "in a state of sexual excitement." Reported in: *Newark News*, March 26.

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

The Metropolitan Abortion Alliance and the National Organization for Women are preparing lawsuits in Washington, Illinois, Michigan, Massachusetts, and New York challenging the Catholic Church's efforts to stop liberal abortion legislation. Lawyers Diane Schluder and Florynce Kennedy of New York, authors of *Abortion Rap*, announced the suits, saying that for an organization with the Catholic Church's tax exempt status to

maintain that status, it must refrain from influencing legislatures, supporting political candidates, and lobbying. The suit asks the courts to stop the Church from collecting, soliciting, or accepting money during the legal challenge. Reported in: *Texas Catholic*, May 1.

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

A bill forbidding the display of lewd, obscene, or indecent publications in places visited frequently by minors received final approval from the general assembly on a 42-to-1 vote. Sen. Harold C. Arcaro, Jr., who sought unsuccessfully to exclude art galleries, libraries, museums, and educational facilities from the measure, cast the only dissenting vote. Reported in: *Pawtucket Times*, April 29.

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## **U.S. Supreme Court Actions**

### *Newsmen and Subpoenas*

The Supreme Court agreed to accept three cases involving subpoenas issued to newsmen. In granting certiorari to the cases of Earl Caldwell (see November 1970 *Newsletter on Intellectual Freedom*, p. 100), Paul Pappas (see May 1971 *Newsletter on Intellectual Freedom*, p. 69), and Paul Branzburg (see March 1971 *Newsletter on Intellectual Freedom*, p. 41), the court seems to have accepted the task of deciding whether newsmen have any constitutional protection against subpoenas which they claim threaten to violate the confidence of news sources and to cut off the flow of news. Reported in: *Washington Post*, April 4.

### *Rhode Island Dismissal*

Voting seven to two, the court refused to hear the appeal of three Providence movie theater operators challenging state and city laws on movie censorship. The reason stated was "for want of jurisdiction." The theaters claimed that a Providence ordinance contained an outdated definition of obscene material, and that the state law contained no definition. Also challenged was a law allowing the Bureau of Licenses to view a film forty-eight hours before it is to be shown, at times "preventing adults from making a voluntary decision to pay an admission price and enter a privately owned motion picture film which the adults may want to see." Reported in: *Providence Bulletin*, April 5.

### *Obscene Matter Through the Mail*

The Supreme Court refused to extend its 1969 ruling in *Stanley vs. Georgia*, which held that the First Amendment prohibits a state from making a crime of the private possession of obscene materials in one's home. Norman Reidel was convicted of offering for sale in an underground newspaper advertisement a booklet on pornography. A postal inspector responded to the ad and

Reidel was prosecuted. The court upheld his conviction, seven to two. Reidel's attorney had argued that, if one can legally possess obscene materials in his home, it stands to reason that he may also acquire such materials by consent, through the mail; otherwise, what has he the right to possess? Reported in: *Chicago Tribune*, May 4.

### *Obscene Matter Through Customs*

In a six-to-three decision, the court reversed a district court decision that denied customs officials the right to seize obscene materials. Milton Luros had challenged the seizure of thirty-seven photographs he had brought with him from Europe. He said they were intended for illustrating an Indian love manual. Noting that "a port of entry is not a traveler's home," the court upheld the seizure. Justices Black and Douglas dissented in an opinion rendered by Justice Douglas, which said, "I do not understand why the court feels so free to abandon previous precedents protecting the cherished freedoms of press and speech. I cannot, of course, believe it is bowing to popular passions and what it perceives to be the temper of the times." Reported in: *Chicago Tribune*, May 4.

### *Language of Love*

A Swedish film, *Language of Love*, seized by U. S. Customs officials as obscene in October 1969, was released to U. S. theaters as a result of a Supreme Court order. A jury in Federal District Court previously concurred with Customs that the film is obscene. That decision was overturned by a U. S. Court of Appeals. The Supreme Court is expected to render its decision on the question of whether the film is obscene sometime in the next month. Reported in: *New York Times*, May 18.

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"The greatest of American traditions is the simple tradition of freedom." — Bruce Catton

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## Errata

Reader Albert B. Gerber, a member of the law firm of Galfand, Berger, Senesky and Lurie, Philadelphia, Pa., writes in reference to an item on p. 41 of the March 1971 *Newsletter on Intellectual Freedom*:

One of the important matters discussed briefly on page 41 is the United States Supreme Court decision involving the booksellers Hunt and Palidino. The cases happen to be quite important, the facts are interesting, the decision is unusual but the write-up is completely in error. For example, your write-up starts, "The U. S. Supreme Court upheld a reversal of convictions in two obscenity cases." The clear implication of the comment is that there was a "holding" by the Supreme Court. This is not true. The Court simply refused to review by denying certiorari and this is definitely not a holding, an upholding, or a decision. Frequently the Court refuses to review on certiorari simply because the moving papers were not filed properly, the matter was not brought to the attention of the Court promptly, or if for one of a hundred reasons the Court feels that this is the wrong time to take the case.

Continuing with the same case the write-up says that "... the court voted 5-3, without written opinion, that no photograph of the female anatomy can be held obscene, regardless of the pose, so long as it does not portray sexual activity." Would that it were so! I would love to have such a ruling by the U. S. Supreme Court. It would simplify my life no end.

Here is what happened in this case: (This is worth reading because it is most unusual.) The booksellers, Hunt and Palidino, were arrested in Massachusetts for selling "spread" magazines. (Girlie magazines of the type which focus camera attention on the female genital area and which try to include in the photograph the inner-lips of labia, the clitoris, etc.) The two gentlemen were tried and convicted in the Massachusetts state courts and took unsuccessful appeals up to the highest court in Massachusetts. They then applied for certiorari to the U. S. Supreme Court which specifically *denied* it. Most students of this field of Jurisprudence would say that was the end of the case. However, we attorneys in the obscenity field are persistent if nothing else and the Massachusetts attorneys then filed *writs of habeas corpus* with the Local Federal District Court trying to get the federal systems at the lower level to, in effect, overrule the Massachusetts highest courts. The Federal District Court (there were two separate courts because there had been two separate convictions) each specifically refused to grant the *writs of habeas corpus*. The cases were then consolidated and appeal taken to the First Circuit Court of Appeals in Boston. There, Chief Judge Bailey Aldrich in a rather unprecedented move heard argument, examined the material and ruled that it was definitely not obscene based on constitutional standards. It was Judge Bailey Aldrich who decided that under existing de-

isions there was no such thing as a photograph of a female, no matter how posed and no matter what part of the body was shown, that could be held obscene — so long as there was no sexual activity. The Massachusetts authorities then appealed Chief Judge Aldrich's decision to the U. S. Supreme Court on a petition for certiorari. This time, for the second time in the same case, the US Supreme Court refused to grant certiorari and therefore refused to review the case. The Chief Justice and Justices Blackmun and Harlan all dissented and said they would have granted the *writs of certiorari* and would have reviewed the case.

I assure you that the actual story of the case is quite different from the write-up on page 41 which is full of errors.

On page 38 [of the March issue] you have another U. S. Supreme Court action which has some interesting errors. I will not go into detail but point out the following — dating back to the 1800's — allowed the Postmaster General to decide, after a hearing, whether mail matter is obscene and to block mail addressed to the sender of such matter." You then say in paragraph 1 that this law was "struck down."

The whole picture is so erroneous I don't know where to begin. The law which permitted the Post Office to decide whether matter is obscene and to block mail addressed to such senders, was a law of 1964 and did not date back to the 1800's. Whoever originally wrote up the case for the *Chicago Sun-Times* misinterpreted the Post Office handout which indicated that the original obscenity prohibitions in the federal mail systems were enacted in the 1800's but this gimmick of blocking mail addressed to senders of obscenity did not come into existence until 1964.

Also, your readers who will read your comment on page 38 may get the impression that the laws were struck down because the Supreme Court did not permit laws to keep "obscene" material out of the mails. That is the implication of the write-up. In point of fact, the two laws that were invalidated by the high Court were voided *solely* on administrative and procedural grounds and solely because the law itself and the regulations under it did not permit rapid adversary judicial decisions on what was and what was not obscene. These very laws could be reenacted tomorrow and if they provided for quick judicial decisions on obscenity they would be held constitutional.

[We thank Atty. Gerber for his in-depth critique and invite similar correction and erudition from other readers. Editors.]

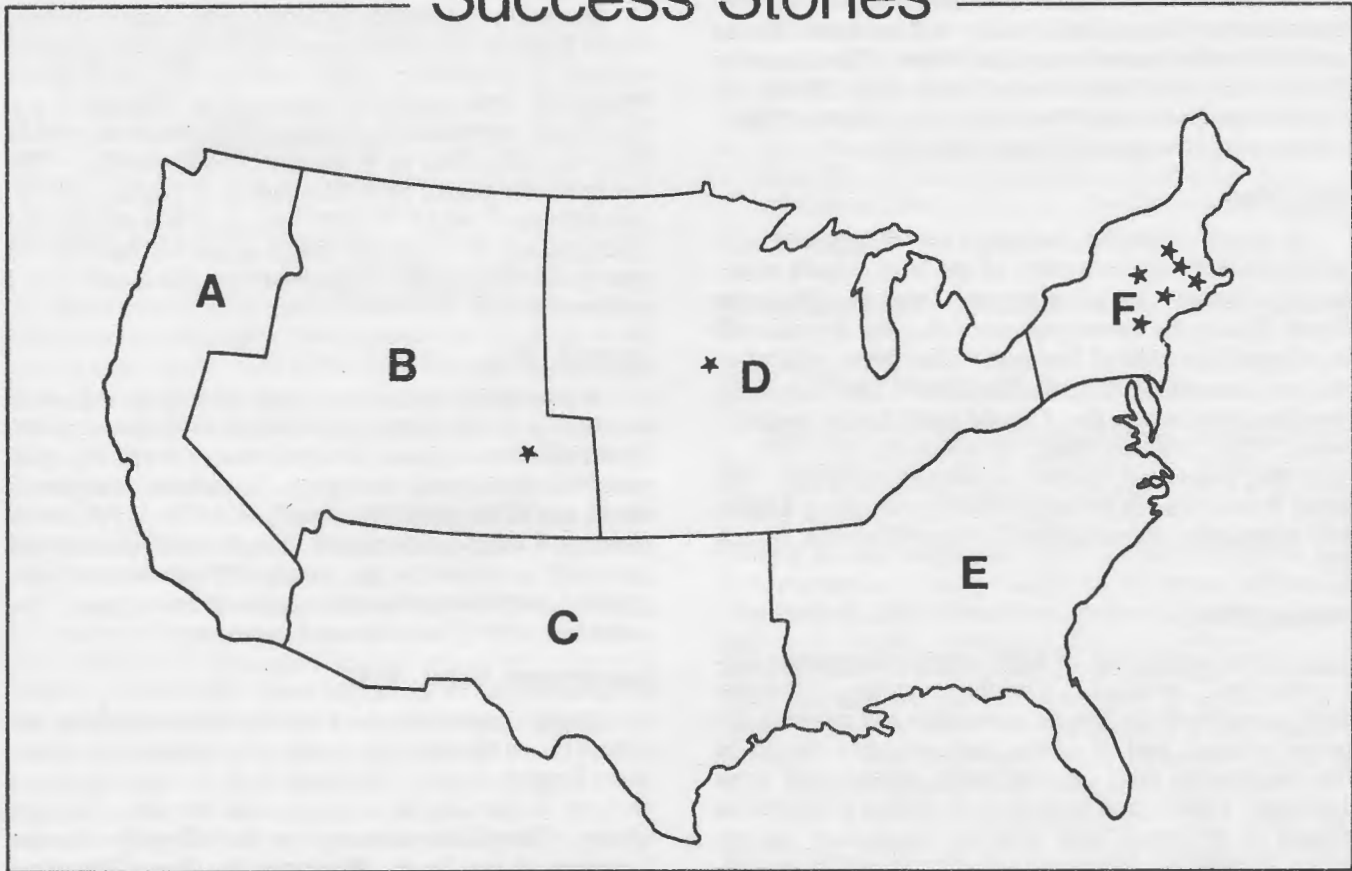
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"The restricted shelf as a rule looks like what it is, a pie in which there have been too many fingers."

— Margaret Culkin Banning

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# Success Stories



## ROCKY MOUNTAIN STATES (B)

Denver, Colo.

At a meeting attended by approximately fifty members, the Jefferson County Young Republicans gave unanimous approval to a resolution which says, in part: "We believe that adult citizens should be allowed to read whatever books they wish to read and to view whatever movies, plays, pictures they wish to view. Such choice belongs completely to every adult, and every infringement upon such choice constitutes a serious threat to the privacy and freedom of individual citizens." Reported in: *Denver Post*, April 9.

## MIDWESTERN STATES (D)

Cedar Falls, Ia.

A Holmes Junior High School committee ruled that the controversial book, *The Me Nobody Knows — Children's Voices From the Ghetto*, be returned to circulation after six weeks of removal. (See May 1971 *Newsletter on Intellectual Freedom*, p. 61.) To the complaining parents the committees said the book "presents life in its

true proportions; circumstances are dealt with realistically; and the book is of literary value. We recognize your right to limit your child's reading material; however, the school has the responsibility to prohibit censorship by an individual for all students." Reported in: *Waterloo Courier*, April 7.

## NORTH ATLANTIC STATES (F)

Burlington, Conn.

Regional District 10 Board of Education reaffirmed the right of school and administrative personnel to select the reading material used at Lewis School. In response to a complaint from a group of approximately sixty Harwinton parents who objected to some books on a reading list because the books, in their opinion, contained obscenities, the board said: "Any parent may request that their child be excused from reading a particular book, since parents differ in interpretations of what is obscene, vulgar or perverted. . . . This board of education reaffirms the three resolutions adopted April 10, 1967." The resolutions referred to were in response to a similar complaint about the book *To Kill A Mockingbird*, by Harper Lee. At that time, the board went on

record as approving assigned reading material and noted the selection of books would be continued by administrative personnel, department heads, and teachers. Books included in the recent complaint were: *The Learning Tree*, by Gordon Parks; *Down These Mean Streets*, by Piri Thomas; and *The Cool World*, by Warren Miller. Reported in: *Hartford Courant*, April 25.

#### **Ayer, Mass.**

A school committee indicated initial approval of a policy prohibiting censorship of the high school newspaper, *Ayerald*. In its statement, read by Chairman Frank Glantz, the committee noted that the *Ayerald* will be allowed the right of freedom of the press, subject to the laws concerning obscenity and libel. The censorship question arose when the *Ayerald* published a student's poem, "Dear Military Man," in which the first letter of each line, combined, spelled an alleged obscenity. The poem drew criticism from the Shirley American Legion Post newsletter. Reported in: *Fitchburg Sentinel*, March 25.

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

A state conference of high school newspapers editors on April 7 resulted in a resolution stating: "The student press should be free of censorship and advance approval of copy, and its editors and managers should be free to develop their own editorial policies and news coverage. Editors and managers of student publications should be protected from arbitrary suspension and removal because of disapproval of editorial policy or content. Only for proper and stated causes should editors and managers be subject to removal and then by orderly and prescribed procedures." Reported in: *Boston Globe*, April 8.

#### **Cambridge, Mass.**

Harvard's Committee on Rights and Responsibilities began hearings in a case involving twenty-four persons accused of disrupting a pro-Vietnam War teach-in on March 26. The teach-in, sponsored by Students for a Just Peace, and featuring law school Professor Archibald Cox, was cancelled as a result of the disruption. The committee is guided by a "Resolution of Rights and Responsibilities," which forbids, among other things, any infringement of academic freedom or of freedom of speech or movement. Reported in: *Columbus (Ga.) Ledger*, May 6.

#### **Armonk, N.Y.**

A proposal considered by some as a move to impose censorship on the district's teachers was defeated by the Byam Hills school board in a four-to-one vote. The proposal was introduced in response to parental complaints about use of Bernard Malamud's *Black Is My Favorite Color* in a tenth-grade course. It subjected instructional materials to review by the principal if not included specifically and in detail in the approved curriculum. Reported in: *Mt. Kisco Patent Trader*, April 1.

#### **Susquehanna Valley, N.Y.**

About sixty residents of the district protested to the school board the use of the novel, *Hog Butcher*, in sophomore English classes. The book by R. L. Fair relates an incident in the life of a 10-year-old boy in a Chicago ghetto. Complaints centered on the allegedly obscene language of the book. Supported by Board Members Mrs. Dorothy Chantry and Joseph Peone, the book was reportedly not prohibited from curriculum use after a stormy board meeting March 18. Reported in: *Binghampton Press*, April 4.

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## **A Personal View of Intellectual Freedom**

Rev. P. E. Roll, Massillon, Ohio

Intellectual freedom can go no farther nor faster than physical freedom: your fist's freedom ends where the other man's nose begins. Individual rights stand squarely in the way of any and all freedoms. The public good or welfare should, and usually does, have preference over personal claims. Intellectual freedoms are held in check in tax-supported institutions, which may be pyramids of Establishmentarianism, which is essentially capitalism, wealth-and-power-ism, even imperialism, or fascism.

Religion has been — until now — in all-but-complete domination of law and public sentiment, which has opposed, blocked, fired-out-of-positions, proponents and out-spoken contenders for "intelligent freedom." The public communications media would not — dared not — support any outright, up-top freedoms; progressive in-

tellects were kept on a very short leash. We who tried and cried for a half-century for a breath of free air found ourselves intellectually imprisoned.

Words are supposedly for communication, but presumptuous "authorities" have limited us to secondary words and evasive phrases. There are tyrants of thought, of speech, of dress, of literature, but not so in certain other Christian countries. We of the great USA have lived all the way in my long-swift day within a religion-law concentration camp; fear and hate were made to dominate. We were reared to virtually "walk-on-eggs," lest some repressive religion-law, or some social grace and good taste we might violate.

There can be no expanding, elevating freedom, worth-a-tinker's-dam, until intelligent freedom levels the walls, bars, guns, prohibitions, inhibitions, repressions, introversions and thereby end frustration, desperation, aberrations; also, the concept of hi-level saints and lo-level devils.



And so, while the incident generated strong antagonism, it also generated strong (equally or better) support.

The graffiti board was kept two and a half weeks after it was scheduled to come down because: (a) people *did* want to see it, and (b) all had to be made aware that the library would not give in to censorship pressures. I did change my policy to "write it but sign it," because it was foolish to stand up for anonymous authors of obscenity.

Some of the members of our library friends group, the Bookworms, were ready to abandon me because they did not agree with what I was doing. Others came to my rescue right away. One of the activities the Bookworms participated in with me helped to clarify the issue very well. I took them through the total bookbuying process with me and they all got a good look at current literature. They have, as a result, been some of my very best ambassadors — even to the conservative members of the community because now they know what is happening in the world of literature.

I think that the whole crisis was good for the library in general. Too many people don't notice the neighborhood library or remember it as a meaningful force in society. It has also been important to demonstrate to the profession at large that attempted censorship can be resisted successfully.

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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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### "Lt. Calley" Banned

The American Armed Forces Radio Network in Vietnam has been told to stop playing "The Battle Hymn of Lt. Calley." After several days of discussions, word went out from the Office of Information of the Military Command to "phase out" the record, which became a best seller after First Lt. William L. Calley, Jr., was convicted by court martial of having murdered at least 22 South Vietnamese men, women, and children at Mai Lai. The song is set to the tune of "The Battle Hymn of the Republic" and contains the following lyrics: "My name is William Calley, I'm a soldier of this land, I've vowed to do my duty and to gain the upper hand, but they've made me out a villain, they have stamped me with a brand, as we go marching on. . . ."

Reported in: *New York Times*, May 1.

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"Briefly, I hold censorship to be impossible; I believe that the censorial organizations in this country, or any other, might be multiplied indefinitely, that they might be granted czaristic powers, supported by the police, the full machinery of the law, and all good citizens, and that even then they would be incapable of accomplishing one jot or tittle of what they believe it their duty to accomplish."

— Ben Ray Redman

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### The Witch Hunts of Academe

How is it that such an anti-intellectual trend has managed to emerge from within the American academic community? Part of the answer doubtless lies in a reaction to the proliferating demands that society is currently placing in our universities and a related genuine fear that academia is being caught up by forces beyond its own control. But behind this appears something deeper and more sinister, something that has occurred all too often in times of unusual stress: a propensity to explain what one doesn't like or agree with or understand in terms of devil theories — to see those of a different bent of mind . . . as evil conspirators who must either be brought under control or exposed and suppressed. . . .

Many of us liken what is happening today to the McCarthy era. Certainly the motivating mentality has much in common. But the witch hunts triggered by McCarthy generated repulsion within the academic community. The witch hunts of today . . . are the creation of elements within the academic community itself. The appalling consequences to which this strange turn of fate can lead must be apparent to all.

Freedom of thought and of inquiry are delicate things. They cannot survive fanaticism whatever its source or motivation. When anyone — whether an authoritarian tyrant, a religious bigot, or a zealous brother's keeper — successfully assumes the right to tell others what is off-limits or on-limits intellectually, our very future is at stake.

—President Henry King Stanford of the University of Rhode Island, Kingston, in the commencement address, 7 June 1970.

From: *Educational Record*, Fall 1970.

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"In assuring minorities their right to self-expression, their right to object, let us not extend to them the privilege of dictating to the rest of us what we may or may not read."

— Leon Carnovsky

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## Alternatives in Print: A Review

*Alternatives in Print*, an index and listing of a variety of publications reflecting contemporary social and political movements, is available from Ohio State University Libraries, PC, Room 322A, 1858 Neil Avenue, Columbus, Ohio 43210. Compiled by the ALA Social Responsibilities Round Table Task Force on Alternative Books in Print, the index is designed to help libraries acquire some publications which the compilers believe are not adequately represented in traditional library tools.

In their introduction, the compilers, all volunteers, add the qualification that this index is only a beginning, a demonstration "of the kind, not the extent, of social responsibility that librarians should expect from their professional association." In spite of its modesty, the task force has provided a valuable listing of *in-print* materials to help librarians select materials directly and indirectly related to what is called "the movement," a loosely affiliated group of organizations whose political and social concerns are directed at similar changes.

*Alternatives In Print* is organized into four main sections: (1) a list of subject headings; (2) a subject index; (3) a list of movement publishers; and (4) a list of publications of movement groups.

The list of subject headings, with modifications, follows the one developed for the Radical Research Center's *Alternative Press Index*. Appropriate cross-references help define the context in which a subject is used and suggest additional related headings.

The subject index refers the user to a specific publisher in the "Publications of Movement Groups" section, rather than to an individual title. This type of reference works efficiently when one is checking for publications under a limited subject, for example, "Camps and Camping," which refers the user to Alaska Sleeping Bag Co., in the section entitled "Publications of Movement Groups." While some may argue with designating Alaska Sleeping Bag Co. as a "movement publisher," only one entry appears there, making the user's task quite simple.

When looking for publications with a broader scope, however, the method of reference presents some difficulty. For example, three publishers are listed under "Guevara, Che." The first of these is American Documentary Films, whose publications appear on six pages of the index, with approximately thirty publications on each page. These titles are grouped into subject areas, such as "Black Liberation," "Domestic Protest," and "Latin America," but for some reason, the subject breakdown within the larger lists is not alphabetical. To find a reference to Guevara, I looked first, and to no avail, for a "Guevara" entry. I next tried "Latin America." Here I found six films listed by title. Guevara was not specifically mentioned in any of the titles, but I assume he could be included in *Hasta La Victoria Siempre, One Way to Change the World, or End of a Revolution*.

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"To demand restrictions upon another's right to expression is to invite restrictions of one's own. He who comes into equity must come with clean hands; and he who demands the freedom of the marketplace for himself must not attempt to deny it to others."

— Elmer Rice

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A review of all the titles on the six pages manifested no specific mention of Guevara, so I turned to the second publisher listed, Newsreel, whose titles cover three pages. Again, I assume one of the titles, perhaps *Hasta La Victoria Siempre*, which appears in this list under "Imperialism, Struggles Against," includes material on Che. However, I am far from certain.

The third publisher listed under "Guevara" is Radical Education Project, whose publications appear on four pages. Here my luck was better. While there was no entry for "Guevara," I found direct references to him under the headings "Introductory Pamphlets" and "The Third World." But who would think to look under these headings? To add to the confusion, the title under "Introductory Pamphlets" deals with the Third World; yet, it does not appear under "The Third World" in the Radical Education Project list.

I have illustrated my search at length to suggest that librarians with no knowledge of Guevara (and there are many) will have little success finding materials about him in *Alternatives In Print*. Even librarians with some knowledge of Guevara will have to guess about unexplained titles such as *Hasta La Victoria Siempre*. Those who already know a good deal about Guevara will probably also know about the films and other materials, making the index unnecessary.

If the compilers of the index truly intend to help librarians acquire movement materials, they must take into consideration the fact that many librarians have no knowledge of the movement, its heroes, or its history. Their task would have been facilitated by simply numbering the list of publications consecutively and referring from the subject heading to a publication number, rather than to a blind list of more than 100 titles.

Beyond this shortcoming, however, *Alternatives In Print* is a worthwhile initial venture. Further editions will, it is hoped, anticipate the possible shortcomings of those most in need of such an index. JAH

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"A society that encourages state intervention in the realm of ideas will find itself an easy prey to state intervention in other realms as well."

— Henry Steele Commager

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## Studies and Surveys

### Obscenity and pornography

(Opinion Survey). *Central Wisconsin*. Residents of five central Wisconsin counties who responded to a recent poll favored tighter controls over the distribution of obscene materials. A total of 52,000 questionnaires were mailed in the 13th annual poll of households in the 2nd Congressional District by Rep. Robert Kastenmeier (D.-Wis.). Of the nearly 9,600 responses, 70 percent favored a penalty of up to seven years in prison or a \$5,000 fine for persons who distribute obscene materials to minors or who distribute unwanted obscene materials to adults. Reported in: *Milwaukee Journal*, April 24.

### Obscenity and pornography

(Opinion Survey). Los Angeles police officers completed a state wide survey which found that 98 percent of those questioned favored government restrictions on nudity and sexual activity in live performances, movies, and magazines. In the survey, four officers interviewed persons in random areas such as shopping centers and markets. The survey was conducted in twenty-one communities, including Los Angeles and San Francisco. Reported in: *Los Angeles Times*, April 23.

## Foot-in-Mouth Award . . .

The Philadelphia County Podiatry Society has chosen Vice President Spiro T. Agnew as the winner of its first annual "foot-in-mouth" award. The society said Agnew beat Martha Mitchell "by a foot." Reported in: *Chicago Sun-Times*, May 9.

## Favor To The FBI

"Despite public statements to the contrary, Xerox is cooperating fully with the FBI," announced Xerox President Peter McCough recently. When the FBI determined that stolen files were being duplicated on a tabletop 660 series copier, Xerox's manager of public relations, Gerald Mulligan, said that, upon FBI request, the company furnished the bureau with a list of all customers who lease 660 series machines. At that time, Xerox refused further assistance on the grounds it would compromise "customer relationships." However, a memo (entitled "Favor to the FBI") to Boston repairmen prompted them to collect samples from all 660 series copying machines in hopes of pinpointing the machine being used. So far, Xerox has not informed its customers and the FBI has not used subpoenas to get the copies. Reported in: *LNS*, May 1.

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"The modern varieties of book censorship are not nearly so deeply rooted as most people suppose. Suppression in one guise or another is age-old. But the English obscenity law dates only from 1857, in the Victorian era, and the United States statutory framework began to be built only in 1873, when Congress was overcome by Anthony Comstock."

— Walter Gellhorn

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