

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



IFC ALA

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Office for Intellectual Freedom, American Library Association

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**A Question  
of  
Separation  
of  
Church  
and State**

**L**ate last Spring, Judge Arthur E. Moore of the Oakland County, Michigan Circuit Court delivered an unusual opinion which resulted in the banning of Kurt Vonnegut's *Slaughterhouse Five* from the Rochester Community Schools, Rochester. Judge Moore's opinion, delivered in a law suit brought by Bruce L. Todd, a member of the Rochester Community Schools Board, was unusual because it termed the book "anti-religious" and banned it for violating the Constitutional separation of Church and State. The major portion of Judge Moore's opinion follows:

**Bruce Livingston Todd vs. Rochester Community Schools**

**THE BOOK**

"A clear and evident abuse of discretion will be evident to this Court upon its reading the subject material, which may be predicated upon obscenity, suggested pornography, decrepitation of ethnic groups, immorality of the American Youth, etc." [From Todd's brief.]

"The implication from this statement [at left] seems to be that the Court should keep in mind matters of obscenity, pornography, immorality of American youth, and like matters in determining whether or not the constitutional provisions relative to religion in public schools are violated.

"The court did read the book, as requested, for determination of factual matters and issues of law alike, and unfortunately did thus waste considerable time. At points, the court was deeply disgusted. How any educator entrusted during school hours with the educational, emotional and moral welfare and healthy growth of children could do other than reject such cheap, valueless reading material, is incomprehensible. Its repetitious obscenity and immorality, merely degrade and defile, teaching nothing. Contemporary literature of real educational value to youth abounds, contains scientific, social and cultural facts, of which youth need more to know, today.

"Certainly, it is unnecessary for any school system to search out and select obscenity, pornography, or deviated immorality in order to teach modern literature.

"Modern desire for complete licentious freedom has evidently led some educators into the fallacy that degradation of subject matter in reading and thought, is a necessary part of freedom in modern education. Does the modern trend of education permit mental prostitution, and encourage mental deviation? If so, this is a sad distortion of educational purpose.

*(Continued on page 133)*

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

## In Our Mailbox . . .

### A LICENSE TO READ

"Dear Editor of the *Sacramento Bee*:

"Vice President Agnew warned the *New York Times* and the *Washington Post* that they should bring their thinking into line with that of Responsible Elements. Since they ignored his admonitions, we can have nothing but praise for Atty. Gen. Mitchell's heroic efforts to enforce responsible press freedom on these sensational rags.

"However, as long as most judges believe in the noxious Jeffersonian legalism called the First Amendment, we shall find it troublesome to restrain the newspapers from feeding the rabble dangerous truths and inflaming them against their betters. Is there, then, no way out of this perplexing situation?

"Yes. I found one the other day in a most unlikely place, an article against censorship by the notorious liberalist justice of the alleged Supreme Court, William J. Brennan, Jr. Here it is, and it should cheer the heart of every gut constitutionalist: 'Nothing in the body of the Constitution or the Bill of Rights says anything about a freedom to read or to listen, or even to think.'

"Why not, I therefore ask, a good tough law to control these potentially subversive activities? I suggest that Congress make it a felony, punishable by a stiff prison sentence, to read without a license. This license would be issued upon the payment of a substantial fee (say, \$1,000) and the passing of a searching examination in civic attitudes, prepared by a board of experts in Americanism from a spectrum of veteran, military, business and other patriotic organizations, and administered by the FBI.

"By thus attacking the problem of suppressing dangerous thoughts from the consumer's rather than the producer's end, we avoid running into opposition of judicial libsymps who mistakenly believe the first ten amendments an actual part of the Constitution. I feel certain that even the present court would have to bring in at least a 5-4 decision for the kind of law I advocate.

Harding Republican"

*We understand that "Harding Republican" is, in reality, very liberal and "deliberately seizes on every breach of freedom that the national and state administrations make, carrying whatever has been advocated by Nixon, Agnew, Reagan, or whoever, to an even more extended conclusion. In so doing, he points up the direction in which the restriction of freedom is going, deliberately outdoing Nixon, et al, vigorously asserting his undying loyalty to Responsible Elements, etc. A good many writers of other letters now and then take him seriously and warn that he is going too far, although they think his intentions are good!" JAH*

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"It was vulgar at the beginning of the 19th century to mention the word 'handkerchief' on the French tragic stage. An arbitrary convention had decreed that tragic personages must inhabit a world, in which noses exist only to distinguish the noble Romans from the Greeks and Hebrews, never to be blown."

— Aldous Huxley

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### Carey Moves On

John T. Carey, formerly head librarian at the Groton Public Library, has accepted the position of media service librarian at St. Mary's College, St. Mary's City, Md. Carey became involved in an intellectual freedom controversy earlier this year when he refused to remove the February issue of *Evergreen Review* from the library. Carey's replacement will be appointed by Town Manager Frederick T. Staples. The town council voted in May to take the appointive power away from the library board, which supported the librarian in the conflict over *Evergreen Review*. Reported in: *Hartford Courant*, Aug. 15.

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"Book burning is a charming old custom, hallowed by antiquity. It has been practiced for centuries by Fascists, Communists, atheists, school children, rival authors, and tired librarians. Like everything of importance since the invention of the cloak and the shroud, its origins are cloaked in mystery and shrouded in secrecy. Some scholars believe that the first instance of book burning occurred in the Middle Ages, when a monk was trying to illuminate a manuscript. All agree that book burning was almost non-existent during the period when books were made of stone. With the coming of papyrus, book burning made a long stride forward."

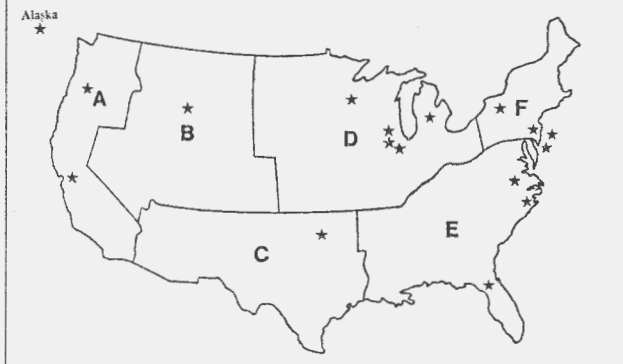
— Richard Armour

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# Censorship Dateline



## PACIFIC COAST STATES (A)

### Fairbanks, Alaska

A scheduled performance of Aristophanes' *Lysistrata* was cancelled just before curtain time because Russell Merrifield, director of the Alaskaland Theater, said parts of the production were not "in good taste and one part might be a violation of the city ordinance which bans topless dancing." After certain changes were made, the play was rescheduled for opening the next night. Reported in: *Anchorage News*, August 15.

### San Francisco, Cal.

San Quentin Associate Warden James W. L. Park said that "revolutionary publications" advocating violent acts such as "kill the pigs" will be censored before convicts get to read them. Park said the rhetoric in the radical press "impresses the convicts with a false feeling of importance . . . some of them think the whole outside world is waiting for them." Recent court rulings have made such publications available to convicts, but Park said the prison has a right to censor what its administrators consider objectionable material, i.e., "verbiage that might tend to incite a prisoner to violence." Reported in: *San Francisco Chronicle*, August 26.

### Stayton, Ore.

Eighteen months ago, residents of Stayton were embroiled in controversy over content of books in school libraries. The debate led to formation of a "screening committee," comprised of "concerned parents." In an article in the *Capital Journal*, Mary Iverson, head librarian of the grade and middle schools is reported as saying, "Swear words are kept to a minimum if they're allowed at all. . . . If an author can't think of ways to convey his message without profanity, then it doesn't belong on the shelves. . . . If the parents find [a book] objectionable, then I will remove it. After all, they pay the taxes to support the school." Marg Limbocker, a member of the screening committee, said she "screened

books that others thought were okay. I thought some of the paperbacks were totally unnecessary so I threw them away. . . . I really didn't look at them. . . . I really didn't read it. If I saw a page with a love scene or with some dirty language, I'd just take it out. . . . We picked out anything that had to do with sex, but we let war and horror stories go." Another committee member, Mrs. Larry Limbeck, described the screening procedure in which the reader scans ten random pages, then decides the book's acceptability. She said, "By reading ten pages, you can usually get the feeling of the author's writing. But if there's ever any serious question, I try to read the entire book. . . . If we consider it to be a good book despite certain passages, we just black out the passages." On the other hand, Karen Damron, librarian at Stayton Union High School, has no screening committee and says, "I defend practically every book with my job. Some books have objectionable language, but it is nothing you don't hear in the halls." Reported in: *Salem Capital Journal*, August 7.

## ROCKY MOUNTAIN STATES (B)

### Aspen, Colo.

Gerald Willsea, director of television station KRMA, decided not to air the fourth program in the Public Broadcasting Service series "Artists in America." According to Willsea, he decided not to broadcast the segment which focuses on Jules Feiffer, including excerpts from the movie *Little Murders*, because of "extreme and excessive profanity." Reported in: *Aspen Times*, July 22.

## SOUTHWESTERN STATES (C)

### Oklahoma City, Okla.

In a letter to Governor Hall and Attorney General Derryberry, the general council for the Oklahoma Civil Liberties Union expressed dismay at the reaction of state law officers to a Ku Klux Klan rally scheduled to be held near McAlester. In the letter, General Counsel Stephen Jones said, "It is clear from the leaflets which have been distributed . . . that the meeting is nothing more than a group of Americans exercising their constitutionally protected right to assemble peacefully and to participate in free speech." He urged the governor "to halt immediately governmental surveillance and to withdraw from the area of the rally unless summoned by those in attendance or upon evidence or reasonable cause that a felony is being committed." Reported in: *Oklahoma City Oklahoman*, August 25.

## MIDWESTERN STATES (D)

### Chicago, Ill.

Radio station WGN refused to run ads for Mike Nichols' *Carnal Knowledge*. The movie was listed in a *Chicago Tribune* editorial against "unsavory movies."

Both WGN and the *Chicago Tribune* are owned by the Tribune Company. Seven newspapers also refused ads for the movie, apparently believing that the word "carnal" means something "dirty." Those papers rejecting the all-type ads for *Carnal Knowledge* were: *Syracuse Post-Standard*, *Syracuse Herald Journal*, *Buffalo Courier-Express*, *Waterbury Republican* and *American*, and *Phoenix Republic* and *Gazette*. Reported in: *Editor & Publisher*, August 21.

### **Chicago, Ill.**

Chicago's National Tea Company officials imposed a ban on *Boss*, by Mike Royko, which lasted for three days. Chicago's airports — O'Hare, Midway, and Meigs Field — also banned the book. Reportedly, the National Tea ban was prompted by complaints from Eleanor "Sis" Daley, wife of Chicago's Mayor Richard J. Daley, subject of Royko's book. Harry B. Smith, National's Chicago division vice-president, said the ban was issued "because of requests from customers." It was revoked "because of the large number of requests for the books." The ban at the airports continues. Reported in: *Chicago Daily News*, September 18.

### **Chicago, Ill.**

Charles Carosella, a 47-year-old Schurz High School history teacher, filed suit in Cook County Circuit Court asking for a mandatory injunction to ban five books from the school's library because they allegedly defame Italian-Americans. The books are *The Vallachi Papers*, *The Mafia and Politics*, *The Crime Federation*, *The Secret Rulers*, and *The Honored Society*. "I tried to get the librarian not to display the books on open shelves," said Carosella, "but he did anyway." He objects to references to what he refers to as the "so-called Mafia," and says he is angered by federal officials who think there is "some kind of monolithic criminal organization of Italians in this country running organized crime." Reported in: *Chicago Daily News*, September 18-19.

### **Carman, Mich.**

A parent complained to the Carman board of education because her thirteen-year-old daughter was given Dick Gregory's *Nigger* as "extra reading." Saying "I don't expect garbage like this to be sent home with my daughter," the woman requested the board president to read aloud encircled passages from the book. He declined. The woman said, "I'm not objecting to it being about Negroes. It's the language. We don't talk like that around our house. I wash my kids' mouths out for saying 'nigger'." Reported in: *Flint Journal*, June 24.

### **St. Paul, Minn.**

David Konkol of Chicago, a senior at the College of St. Thomas, lost a \$600 National Student Defense Loan, a \$700 grant from the college, and a \$300 job in the college library because he wrote a letter critical of the college administration. Konkol wrote, "The admin-

istration at the college is stagnated by bureaucratic pettiness, paternalism, and inefficiency." In response, Dean of Students William B. Malevich wrote, "Recently you wrote criticizing the college administration's inability to make decisions. You are wrong — the administration can make decisions. As proof of this the administration has decided to cancel your financial-aid grant for the coming year." Last year Konkol was president of the Resident Student Council which was critical of the administration's decisions on various campus issues. Reported in: *Chicago Daily News*, September 21.

## **SOUTHERN STATES (E)**

### **Gainesville, Fla.**

The Southland Corporation, operators of "7-11 Foodstores," has agreed with the state's attorney's office to remove all "dirty" books from the shelves of the firm's six Alachua County stores. The action is a result of complaints by a number of parents to the state attorney's office that the foodstores openly displayed titles such as *Offbeat Orgy* and *Share My Spouse*. Those books and others were seized and a temporary restraining order was issued against the Southland Corporation. The firm says it does not want materials on its store racks "which are offensive because they affront community standards." Store managers were warned by the corporation to remove books with "undesirable titles" which might harm children, and to report all complaints about magazines and books to the firm's officials. Reported in: *Orlando Sentinel*, August 3.

### **Richmond, Va.**

The 3rd District Committee of the Virginia State Bar Association filed a complaint in Law and Equity Court seeking a permanent injunction against further publication of *The Law As a Way of Life: Memoirs of George E. Allen*, the autobiography of a Richmond lawyer. The complaint states that the book violates a state canon of professional ethics which prohibits a lawyer from advertising, either directly or indirectly. Reported in: *Richmond News Leader*, September 16.

### **Virginia Beach, Va.**

Nick Larry Gonzalez is the first artist to be arrested at the annual Virginia Beach Boardwalk Art Show for displaying allegedly obscene works. His rendition of "fence board graffiti" garnered numerous complaints, and he was arrested when he refused to remove it. After posting \$200 bond, Gonzales returned to his display where the controversial painting remained on exhibit with the "offensive words" blocked out. A month later, the charge was dismissed by Municipal Court Judge P. B. White on the basis of Gonzalez' attorneys' arguments that the work had redeeming social value and was not offensive. Reported in: *Virginia Beach Sun*, July 22; *Norfolk Pilot*, August 14.

## NORTH ATLANTIC STATES (F)

### Teaneck, N.J.

On a single day's notice, Andrew Fraser, president of the school board, scheduled an "emergency" board meeting during the week before Labor Day. The purpose of the meeting was to demand the banning of Piri Thomas' *Down These Mean Streets* from local schools. Because three board members were on vacation, and due to many phone calls protesting Fraser's action, the meeting was delayed an extra day. It was held on Thursday, September 2, and attended by approximately 300 people, including board members who hastily returned from vacations. Fraser said of *Down These Mean Streets*, "It's a filthy book." Speakers favoring retention of the book received standing ovations from the audience. When the meeting ended, no action had been taken on the book. The question, however, is still unresolved and is expected to generate further debate. Reported in: *Council on Interracial Books for Children Bulletin* (in press).

### Hauppauge, N.Y.

William R. Baird, Jr., a professional lecturer on birth control, was arrested and charged with endangering the welfare of a child because a 14-month-old girl was in the audience when he displayed birth control devices at a lecture. The child's mother, Mrs. Nancy Manfredonia, was also ordered to stand trial on the same charge. Baird said, "You can get mugged in New York City and be lying bleeding in the gutter without finding a policeman, but hold up a diaphragm, and you get six of them." Reported in: *Baltimore (Md.) Sun*, August 8.

### Hempstead, N.Y.

Invoking a little-known and little-used ordinance, Town of Hempstead officials forced removal from a Merrick Road Park exhibit of works representing nudes. The ordinance forbids the showing of nude art in local parks. Reported in: *Garden City Newsday*, August 10.

### New York, N.Y.

Dr. Martin Shapard, a psychiatrist and author, accused the *American Journal of Psychiatry* of imposing an "arbitrary and outrageous ban" on his book *The Love Treatment* which deals with sexual relations between patients and therapists. The *Journal* refused to accept an advertisement for the book on the ground that the subject was "inappropriate" for the professional publication. Reported in: *New York Times*, September 7.

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"Anything we've got, we've got out. We feel that it is basically the parent's responsibility to oversee what a child reads." — Mary A. Hall, Prince Georges County (Md.) Public Library. *Washington Daily News*, August 30.

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## Intellectual Freedom International

### LATIN AMERICA

#### Rio de Janeiro, Brazil

The Brazilian Justice Minister announced a ban forbidding publication of Adolf Hitler's *Mein Kampf* in Portuguese or any other language in Brazil. Because the book advocates racial discrimination, the minister said it violated Brazil's Constitution. Previously, Brazilian censors banned sixty popular songs without explanation. Brazil is the only country in the Western Hemisphere having a prior censorship law which covers books, movies, magazines, plays, and songs. Though under self-censorship, Brazilian newspaper reporters complain of the censor's constant restraints on domestic news coverage. Reported in: *Baltimore Sun*, August 28.

#### Santiago, Chile

President Salvador Allende announced he will no longer permit United Press International (UPI) to operate in Chile. Reportedly, UPI issued a wire service story which was later refuted by one of Allende's "inner circle." Reported in: *Baltimore News American*, September 18.

### EUROPE

#### London, England

*The Little Red School Book*, a mini-book which offers advice on sex and drugs to its intended 11- to 16-year-old readers, was found guilty of violating Britain's obscenity laws. The Magistrates' Court, on July 2, fined the publisher \$120 for possession of the alleged Scandinavian translation. The director of public prosecutions declared that the book went "very close to incitement to commit offenses in breach of the Sexual Offenses Act." The prosecution argued that the book says "sex is fun, and that anything that is fun is acceptable." Reported in: *Washington Post*, July 30.

#### London, England

*Sesame Street*, the popular American children's program, was banned by the British Broadcasting Corpora-

(Continued on page 143)

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"We got nowhere by banning books just because they contain characters which do not flatter us. We get nowhere by pretending that there are not heroes and villains of all creeds and colors. . . . Our one hope is to face the facts."

— John Mason Brown

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# Viewpoint: Prejudice Through Library of Congress Subject Headings

Joan K. Marshall

[Miss Marshall, a member of the Board of Trustees of the Freedom to Read Foundation, is a cataloger at Brooklyn College.]

When the subject of "labeling," recognized as a violation of the Library Bill of Rights, arises it is often defended by the assertion that subject headings themselves constitute a legitimate and necessary form of labeling. The counter-argument usually maintains that subject headings, unlike labels supported by patriotic, religious, or other pressure groups, are as objective as possible and do not prejudice or predispose patrons toward the content of library materials. In the following edited text of a talk presented on June 24, 1971, in Dallas, at a program sponsored by the ALA SRRT Gay Liberation Task Force, Miss Marshall attacks that counter-argument, particularly as Library of Congress subject headings concern oppressed groups such as women, Blacks, and gays (homosexuals). JAH

Much of what I am going to say will appear as a footnote in a book to be published soon by Scarecrow Press. I believe this book will create quite a stir in the library world and especially in the Library of Congress. The book, *Prejudices and Antipathies: a Tract on LC Subject Headings Relating to People*, by Sanford Berman, is a thoroughly documented indictment of the list-makers' insensitivity toward minority groups. I believe this insensitivity is a result of the philosophy that underlies the Library of Congress's subject heading practice.

The guiding principles for establishing subject headings in the LC list are set forth in Haykin's *Subject Headings: a Practical Guide* (Washington, D.C., Library of Congress, 1951). As stated by Haykin at p. 7, the first of the fundamental concepts for establishing a heading is "that the reader is the focus in all cataloging principles and practice." Therefore, the terminology of an effective and easy-to-approach catalog must be determined by the majority of the readers' probable psychological approach to the subject. References serve the needs of minorities.

This cataloging axiom has two serious faults. First is the assumption that libraries, keeping "in mind the kind of reader the library serves, his social background and intellectual level" (Haykin, p. 9), tailor-make subject headings to suit their patrons. This assumption is unfounded. In actuality, libraries use lists. The use of maintained, up-dated lists is an economic necessity and has the added desirability of creating uniformity of usage from library to library. Since the use of lists is the norm, the list-makers must accept responsibility for

viewing their reader as an aggregate who has varied social backgrounds and intellectual levels. Since the reader cannot be identified validly, assumptions about his probable psychological approach to a subject are unfounded.

The second fault of the axiom is that it violates the principle, constantly defended in regard to our collections, that libraries do not exhibit bias. If librarians defend their rights as educators to present all points of view in their collections [as stated in the *Library Bill of Rights*] they must accept their obligation to provide an approach to their collections that is equally without bias, one which does not reinforce psychological, sociological, economic, political, and other assumptions and prejudices of their public. Such obvious pandering to the "social backgrounds and intellectual levels" of a library's clientele as the entry of works under FILTHY BOOKS or NIGGERS would be castigated by the profession, which would recognize that such an obviously biased approach to the material also biased the material, whatever its content.

In its headings referring to persons, the LC list unfortunately reflects the application of Haykin's axiom. The list's bias and illogic reflect the list-makers' identification of the "majority reader" and the extrapolation from that identification that that reader is the norm. An examination of the list makes it clear that the "majority reader" and the norm — as far as LC is concerned — is white, Christian (often specifically Protestant,) male, and straight (heterosexual).

Application of this norm is apparent in subject headings relating to so-called minority groups. Gays (or homosexuals, to use the list's terminology), are actually not treated too badly in the list compared to other minorities. Male homosexuals and lesbians are both subsumed by the "see also" structure under "sexual perversion," but that is the only mention gays receive at the moment. The Library of Congress has obviously not had reason to give gays too much thought. But, as gay liberation grows (and it certainly seems to be growing), and as more books about the gay alternative are published, the offensive hearings will probably multiply. Gays are identified as something outside the norm just like Blacks and women. To be outside the norm means, in the philosophy underlying the list, that everything you do is colored by your "normless" place in society. How does HOMOSEXUALS AS CONSUMERS grab you! Women, despite the amount of wealth they supposedly control, Blacks, and many other so-called minorities have not yet achieved the status of actually being consumers. They act out a role. They are WOMEN AS CONSUMERS, NEGROES AS CONSUMERS, etc. It

is not merely . . . AS CONSUMERS that women, Blacks, Jews, Catholics, and others play roles. As proof of my norm theory, I offer the heading JEWS AS SCIENTISTS, an area of study in which that ethnic minority probably predominates. There is no heading CHRISTIANS AS SCIENTISTS because Christians are the norm, and the unadorned heading SCIENTISTS can be used to cover works about Christian scientists as well as works about scientists in general. Another example is WOMEN AS LIBRARIANS, about which no comment is necessary, except to point out that there is no heading MEN AS LIBRARIANS.

I believe the real problem with the Library of Congress subject heading list, therefore, lies behind the list and cannot be solved by attacking individual headings. Attacks on individual titles are vital, however, if we are to convince LC that the admittedly serious economic difficulties, both for LC and other libraries, presented by a drastic revision of the list must somehow be overcome. The list-makers' consciousness of the feelings and attitudes of people being categorized must be raised. For instance, the list distinguishes three special classes of people as criminals — Jews, Negroes, and Catholics. When Sanford Berman suggested that these headings exhibit a certain amount of bias, C. Sumner Spaulding of the Library of Congress took it upon himself to reply. He said that the criminal element of other groups is taken care of by the heading CRIME AND CRIMINALS, with geographic subdivision. Mr. Spaulding's defense of the list is understandable but it does not hold. JEWISH CRIMINALS and CRIME AND CRIMINALS — ISRAEL are not comparable approaches to material. Women are not even allowed the dubious dignity of being criminals; they are "delinquent." About ten years ago, The Library of Congress, in a burst of misplaced chivalry (or was it male chauvinism inspired by the rise of women's lib), cancelled WOMAN CRIMINALS and substituted DELINQUENT WOMEN, thereby cementing in subject heading form the unequal role relegated to women in our society.

To continue the attack on specific headings, consider the example of the rash of reprints, many of them trash, with which our often none-too-ethical publishers flooded the market (and libraries bought) following the establishment of Black or Afro-American studies in colleges all over the country. These necessitated establishing a heading to cover the peculiar oppression of Black women under slavery. But would you believe that in 1967 the Library of Congress established the entry MAMMIES! Could any of us, without mumbling embarrassed and probably useless apologies, even if we dared, tell a young, militant, Black woman who wanted material on this subject to look under MAMMIES! Why not SLAVERY IN THE U.S. — OPPRESSION OF WOMEN, or NEGRO WOMEN — OPPRESSION?

Or, better yet, why were the writings of young, militant, Black women not consulted? The answer to that

question is that subject heading terminology reflects the terminology of "authorities in the field." To come up with the heading MAMMIES, LC must have considered the outdated reprints to be the "authority." LC's use of the terminology of authorities as criteria for establishing subject headings and classification scheme notation is affirmed in the Spring 1971 *Library Resources and Technical Services*, which includes a proposal by Thomas Yen-Ran Yeh to revise the treatment of the American Indian in the E-F LC classification schedules. Eugene T. Frosio, Principal Subject Cataloger, Library of Congress, in reply to a proposal that the word "massacre," which appears a number of times in the schedule, be replaced by the word "incident" says that, "events are not named according to what it is polite or ideal to call them, but according to what they are actually called by authorities in the field. Therefore, the names of special engagements which have been named 'massacre' must stand. We note, as an example, that the 1967 edition of *Encyclopaedia Britannica*, in almost every instance, also refers to the the engagements we call 'massacres' as 'massacres.'" It seems logical, then, if the incident at Natchez in 1729 was a massacre in which the Indians were the culprits, the incident at Wounded Knee was a massacre in which the U.S. Calvary was certainly the culprit. Yet, though the classification scheme describes the incident as a massacre, the subject heading is WOUNDED KNEE CREEK, BATTLE OF, 1890. Perhaps two sets of authorities were consulted, or perhaps this is another instance of the application of the norm.

I would like to suggest to the list-makers that, if in creating non-WASP subject headings, they also at least consulted non-WASP authorities, the list would show less bias.

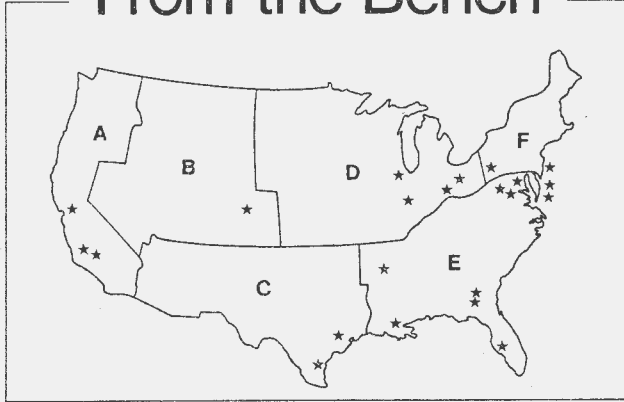
More and more people are becoming aware of the serious social inequities that exist in this country. Sanford Berman's book should go a long way toward pointing out that these inequities are reflected in the Library of Congress subject heading list. I hope the time is ripe to let the Library of Congress, librarians, and the politicians who control the purse strings know that we want something done! For me, at least, the most outrageous heading of all outrageous headings culled from the LC list by Mr. Berman is YELLOW PERIL. It really exists; one wonders what "authority" was consulted. It is time to let those in a position to do something about it know that YELLOW PERIL and its fellow monstrosities must be purged.

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"We don't make any effort to screen what we consider questionable. This is a very sophisticated, book-oriented area where people should be free to choose their own reading." — Mary Dulany, Adult Services Coordinator, Montgomery County (Md.) Public Library. *Washington Daily News*, August 30.

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## From the Bench



### PACIFIC COAST STATES (A)

#### Los Angeles, Cal.

Superior Court Judge Charles H. Older sentenced William Farr to prison for refusing to answer questions about his work as a newspaper reporter. On October 9, 1970, Farr wrote an article for the *Los Angeles Herald-Examiner* concerning statements by Virginia Graham, a cellmate of Susan Atkins, participant in the trial of Charles Manson. At that time, Farr refused to reveal to Judge Older the source for the article, claiming that he was protected by a California statute allowing reporters to keep their sources confidential. Subsequently, Farr became press secretary for District Attorney Joseph P. Busch. Judge Older now holds that Farr is not a reporter and can no longer claim protection under the statute. Questioned again on July 19, Farr once more refused to reveal his sources. Judge Older held that Farr committed seventeen acts of contempt and ordered him imprisoned until he is willing to answer. Reported in: *New York Times*, July 29.

#### Los Angeles, Cal.

A three-judge federal panel upheld the constitutionality of a year-old law allowing persons to bar unsolicited obscene materials from their mail. Under the law, persons may notify the U. S. Postal Service that they do not want to receive such materials, and the producing companies must comply or pay a fine. Reported in: *New York Times*, August 8.

#### Los Angeles, Cal.

The California State Supreme Court ruled unconstitutional a Los Angeles County ordinance requiring licenses for bookstore operators. In a 5-2 decision, the court said the 1969 ordinance, which allows for denying a license to an applicant solely because of a prior criminal conviction, sets forth an inadequate standard and constitutes an invalid prior restraint of First Amendment rights. James Perrine, convicted in 1969 of distri-

buting obscene materials, brought the suit to challenge denial of a license to him because of the conviction. Reported in: *Los Angeles Times*, September 4.

#### San Francisco, Cal.

U. S. District Judge Alfonso Zirpoli issued a preliminary injunction to effect the reinstatement of Jack Kurzweil as an assistant professor of electrical engineering at San Jose State College. Kurzweil, a "political radical" and husband of avowed Communist Bettina Aptheker, was denied tenure and dismissed by San Jose Chancellor Glenn S. Dumke who personally intervened in the case. Stating that Kurzweil's suit is likely to succeed on its merits and that failure to grant injunctive relief will result in irreparable damage to the teacher, Judge Zirpoli said, "It is reasonable to conclude Kurzweil was punished for his political beliefs and was therefore denied rights protected by the First Amendment." Although the injunction orders Kurzweil's reinstatement, it does not reestablish tenure for him. His suit for permanent reinstatement with tenure is still pending. Reported in: *Los Angeles Times*, September 2.

### ROCKY MOUNTAIN STATES (B)

#### Denver, Colo.

County Court Judge Zita Weinshienk dismissed charges of possession of pornography against five magazine salesmen. The magazines involved are *Harem*, *Jaybird Happening*, *Wild Couples*, *Eclipse*, and *Sex Nest*. Judge Weinshienk dismissed the cases because the prosecution presented no expert testimony and she could not find the magazines obscene under present laws without expert testimony concerning community standards. Reported in: *Denver Post*, August 8.

### SOUTHWESTERN STATES (C)

#### Corpus Christi, Tex.

U. S. District Court Judge Owen Cox fined Color-media Corporation \$4,000 after a plea of guilty to federal obscenity charges stemming from a September 1970 closed circuit telecast of the musical, *Oh! Calcutta*. In an indictment announced in May, Attorney General John N. Mitchell characterized the play as "obscene, lewd, lascivious, and filthy." The U. S. Justice Department alleged that the closed circuit transmission violated an 1873 law which forbids transporting obscene matter by common carrier in interstate commerce. Reported in: *Washington Post*, August 19.

#### Dallas, Tex.

After deliberating seven hours, a jury found Mrs. Neomia Lee Adams guilty of selling an obscene magazine while working as a salesgirl in an adult bookstore. County Criminal Judge James Guthries sentenced Mrs. Adams to the maximum six-month jail term and maximum \$1,000 fine, but probated the jail sentence for



four months. The magazine, *Aware*, contained numerous pictures of couples participating in sexual intercourse and "oral sodomy," and sold for \$6. Reported in: *Dallas News*, September 8.

#### **Houston, Tex.**

U. S. District Court Judge Carl O. Bue, speaking for a three-judge federal panel, dismissed for lack of jurisdiction a suit filed by Cinema West alleging two of its employees were wrongfully arrested in connection with showing allegedly obscene movies. Bue cited February 1971 U.S. Supreme Court decisions barring federal court intervention in state criminal proceedings. U. S. District Court Judge John V. Singleton, Jr., dissented from the two-judge majority, saying that the U. S. Supreme Court ruling has been used by some courts "as an expedient means of sweeping the federal dockets clean of all such cases." Reported in: *Houston Chronicle*, August 5.

### **MIDWESTERN STATES (D)**

#### **Chicago, Ill.**

U. S. District Court Judge Frank J. McGarr granted a temporary injunction against the sale of posters and T-shirts which picture Walt Disney cartoon characters engaged in various "objectionable" acts. Attorneys for Disney claim the novelties depict the cartoon characters "engaged in everything destructive to their worldwide image of innocence." The posters and shirts are made in Pakistan by Godawful Graphics and distributed in Chicago by Hip Products, Inc. Reported in: *Chicago Sun-Times*, August 26.

#### **Terre Haute, Ind.**

City Court Judge N. George Nasser uses a unique program of rehabilitation for first offenders arrested for shoplifting, continuing their cases until they have read Victor Hugo's *Les Miserables*. Upon return to court, shoplifters are quizzed by Judge Nasser on the contents of the book from a list of about eighty questions he has prepared. The judge claims he has handled over ninety such cases thus far and only four or five have repeated the offense. Reported in: *Terre Haute Tribune*, August 24.

#### **Cincinnati, Ohio**

Ruling on a suit filed by Charles H. Keating, Jr., a former member of the National Commission on Obscenity and Pornography and founder of Citizens for Decent Literature, the Ohio State Supreme Court declared parts of the movie *Vixen* obscene, thus banning those portions from showing in Ohio. In a 5-to-2 decision, the court said, "Purported acts of sexual intercourse solely for the profit of the producer and exhibitors cannot constitute the communication of an idea or a thought protected by the First and Fourteenth Amendments." Reported in: *Cincinnati Enquirer*, July 22.

#### **Columbus, Ohio**

Common Pleas Court Judge Clifford Rader dismissed a charge of selling obscene literature against Al Kassam Hasah Miqdadi, operator of the Mid America Bookstore. Judge Rader cited a recent U. S. Supreme Court ruling on a Massachusetts decision which was allowed to stand. The lower court said that "without depiction of sexual activity, no photograph of the female anatomy can be held obscene, no matter how posed or how lacking in social value." Reported in: *Columbus Dispatch*, July 27.

### **SOUTHERN STATES (E)**

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

Federal Judge G. Thomas Eisele ordered the Little Rock Auditorium Commission to issue a contract to Southwest Productions, Inc., for a six-day performance of *Hair* in January 1972. The commission has voted twice not to grant contracts for the rock musical. Southwest, in filing the suit, claimed that the commission exercised prior restraint of First Amendment rights. Eisele also ruled that the commission cannot invoke a paragraph in its standard contract which "reserves its right to delete or rewrite offensive parts of a play." Reported in: *Little Rock Democrat*, August 12.

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

U. S. District Court Judge June L. Green ruled that the U. S. State Department must either require all passport applicants to sign a loyalty oath or abolish the oath altogether. In a suit brought by the American Civil Liberties Union on behalf of five passport applicants, Judge Green said an optional oath "unfairly discriminates among U. S. citizens." The ACLU contended that by choosing not to take the oath, an individual might have his name placed on a "master list" of persons considered suspect by the State Department's Passport Office. Reported in: *Washington Post*, July 29.

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

A three-judge federal appeals panel, ruling on Federal Communications Commission (FCC) decisions, said that broadcasters cannot, as a matter of general policy, refuse to sell advertising time to groups or individuals wishing to comment on controversial issues. However, the panel did not say that broadcasters are *required* to accept all such advertising and noted that they retain the right to "exercise judgment" over what advertisements are aired. The decision resulted from two cases previously decided by the FCC. In the first case, the Business Executives Move for Vietnam Peace was denied air time on Washington, D.C. radio station WTOP. In the second case, the Democratic National Committee challenged broadcasters' refusals to sell air time for solicitation of funds and for comment on public issues. In the majority opinion, Judge J. Skelly Wright said, "A society already so saturated with commercialism can

well afford another outlet for speech on public issues. All that we may lose is some of our apathy. That is a small price to pay." Reported in: *Wall Street Journal* (Eastern Edition), August 4.

#### Washington, D.C.

Federal District Court Judge Howard F. Corcoran, ruling on a lawsuit filed *two years ago* by the now defunct *Washington Free Press*, declared a National Park Service regulation unconstitutional. The regulation, which prohibits distribution of publications in or adjacent to national parks, has been used frequently to arrest street vendors of underground newspapers. Reported in: *Washington Post*, August 6.

#### Washington, D.C.

Herman L. Womack, convicted in July of fifteen counts of transporting and mailing obscene materials, was sentenced on August 25 to 7½ years in prison. (See September 1971 *Newsletter*, p. 111, for details.) Reported in: *Washington Post*, August 26.

#### St. Petersburg, Fla.

After a three-day trial, a jury convicted Julian Caplan, owner of the Sun Art Theater, of showing an "obscene, lewd, lascivious, and filthy" movie, *Little Sister*. The charges against Caplan carry a maximum penalty of one year in jail and \$1,000 fine on each of eight counts. Caplan still faces trial on similar charges for showing another movie, *The Continuing Adventures of Johnny Gonad*. Reported in: *St. Petersburg Independent*, July 31.

#### Atlanta, Ga.

U. S. District Court Judge Sidney O. Smith, citing U. S. Supreme Court decisions barring interference by federal courts in state criminal matters, refused an injunction to halt enforcement of state obscenity laws. The suit was filed by Alex Cooley, promoter of the rock musical *Stomp*, and two cast members, after representatives of the Fulton County Solicitor's office visited the show and informed the producer that, unless nude scenes were dropped, wholesale arrests would be made. The theater in which the play was being performed burned down after the suit was filed, but the play is to be revived in the fall. The plaintiffs were ordered to pay the costs of the action. Reported in: *Atlanta Constitution*, August 27.

#### Forest Park, Ga.

Under court order, the Clayton County school board gave full back pay and \$5,000 damages to high school English teacher Luke T. Calloway, Jr., fired last year because of teaching materials he used. His classes used *Playboy* and a surrealist movie by Salvador Dali. Reported in: *New York Times*, September 19.

#### New Orleans, La.

The New Orleans Book Mart, Inc., bookstores, convicted for selling obscene material, were closed for one year by court order following successful suits filed by Police Supt. Clarence B. Giarrusso, acting as a private citizen. The city attorney said, "It was not the contents of the books that were judged objectionable, as it was photographs placed on covers of the books and inside which were clearly obscene. For instance, the *President's Commission Report on Obscenity and Pornography* was displayed with obscene photos pasted on the cover as an inducement to buy the *Report*." Reported in: *New Orleans Clarion-Herald*, August 26.

#### Baltimore, Md.

Circuit Court Judge Solomon Liss upheld the state movie censor board's ban on *Man and Wife*. In finding the film obscene by U. S. Supreme Court standards, Judge Liss said it purports to be a marriage manual, but depicts scenes that could be performed "by bedroom athletes only." Reported in: *Baltimore Sun*, August 28.

### NORTH ATLANTIC STATES (F)

#### Pittsburgh, Pa.

Common Pleas Court Judge J. Frank McKenna banned the showing of *House of Hookers*, *Fantastic Ceilings*, and four untitled shorts at the L'amoure Theater because the films are obscene. He allowed the theater to continue showing *Nympho Cyclor* because he said "it may have a story line of sorts." Reported in: *Philadelphia Inquirer*, August 20.

#### New York, N.Y.

Criminal Court Judge William E. Ringel ruled that textual material is not to be construed as a protective screen for obscene pictures in publications. In so ruling, Judge Ringel refused to dismiss obscenity charges against Jeffrey Domerantz, a seller of *The Illustrated Presidential Report of the Commission on Obscenity and Pornography* and a magazine called *Sexscope*. In his decision, Judge Ringel said, "The non-obscene material does not make up for or make amends for the obscene matter. In other words, the former cannot be used to bail out the latter." Reported in: *New York Times*, August 5.

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"Fairfax County library recently liberalized its policy, and is changing its system right now, making all books available to all readers." Patricia Carey, Public Services chief, Fairfax County (Md.) Public Library. *Washington Daily News*, August 30.

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## Viewpoint: Pornography, Obscenity and the Case for Censorship

Irving Kristol

In Two Parts. Part II

[Irving Kristol is the Henry Luce Professor of Urban Values at New York University.]

Though the phrase, "the quality of life," trips easily from so many lips these days, it tends to be one of those clichés with many trivial meanings and no large, serious one. Sometimes it merely refers to such externals as the enjoyment of cleaner air, cleaner water, cleaner streets. At other times it refers to the merely private enjoyment of music, painting or literature. Rarely does it have anything to do with the way the citizen in a democracy views himself — his obligations, his intentions, his ultimate self-definition.

Instead, what I would call the "managerial" conception of democracy is the predominate opinion among political scientists, sociologists and economists, and has, through the untiring efforts of these scholars, become the conventional journalistic opinion as well. The root idea behind this "managerial" conception is that democracy is a "political system" (as they say) which can be adequately defined in terms of — can be fully reduced to — its mechanical arrangements. Democracy is then seen as a set of rules and procedures, and *nothing but* a set of rules and procedures, whereby majority rule and minority rights are reconciled into a state of equilibrium. If everyone follows these rules and procedures, then a democracy is in working order. I think this is a fair description of the democratic idea that currently prevails in academia. One can also fairly say that it is now the liberal idea of democracy par excellence.

I cannot help but feel that there is something ridiculous about being this kind of a democrat, and I must further confess to having a sneaking sympathy for those of our young radicals who also find it ridiculous. The absurdity is the absurdity of idolatry — of taking the

symbolic for the real, the means for the end. The purpose of democracy cannot possibly be the endless functioning of its own political machinery. The purpose of any political regime is to achieve some version of the good life and the good society. It is not at all difficult to imagine a perfectly functioning democracy which answers all questions except one — namely, why should anyone of intelligence and spirit care a fig for it?

There is, however, an older idea of democracy — one which was fairly common until about the beginning of this century — for which the conception of the quality of public life is absolutely crucial. This idea starts from the proposition that democracy is a form of self-government, and that if you want it to be a meritorious policy, you have to care about what kind of people govern it. Indeed, it puts the matter more strongly and declares that, if you want self-government, you are only entitled to it if that "self" is worthy of governing. There is no inherent right to self-government if it means that such government is vicious, mean, squalid and debased. Only a dogmatist and a fanatic, an idolater of democratic machinery, could approve of self-government under such conditions.

And because the desirability of self-government depends on the character of the people who govern, the older idea of democracy was very solicitous of the condition of this character. It was solicitous of the individual self, and felt an obligation to educate it into what used to be called "republican virtue." And it was solicitous of that collective self which we call public opinion and which, in a democracy, governs us collectively. Perhaps in some respects it was nervously over-solicitous — that would not be surprising. But the main thing is that it cared, cared not merely about the machinery of democracy but about the quality of life that this machinery might generate.

And because it cared, this older idea

of democracy had no problem in principle with pornography and/or obscenity. It censored them — and it did so with a perfect clarity of mind and a perfectly clear conscience. It was not about to permit people capriciously to corrupt themselves. Or, to put it more precisely: in this version of democracy, the people took some care not to let themselves be governed by the more infantile and irrational parts of themselves.

I have, it may be noticed, uttered that dreadful word, "censorship." And I am not about to back away from it. If you think pornography and/or obscenity is a serious problem, you have to be for censorship. I'll go even further and say that if you want to prevent pornography and/or obscenity from becoming a problem, you have to be for censorship. And lest there be any misunderstanding as to what I am saying, I'll put it as bluntly as possible: If you care for the quality of life in our American democracy, then you have to be for censorship.

But can a liberal be for censorship? Unless one assumes that being a liberal *must* mean being indifferent to the quality of American life, then the answer has to be: yes, a liberal can be for censorship — but he ought to favor a liberal form of censorship.

Is that a contradiction in terms? I don't think so. We have no problem in contrasting *repressive* laws governing alcohol and drugs and tobacco with laws regulating (i.e., discouraging the sale of) alcohol and drugs and tobacco. Laws encouraging temperance are not the same thing as laws that have as their goal prohibition or abolition. We have not made the smoking of cigarettes a criminal offense. We have, however, and with good liberal conscience, prohibited cigarette advertising on television, and may yet, again with good liberal conscience, prohibit it in newspapers and magazines. The idea of restricting individual freedom, in a liberal way, is not at all unfamiliar to us.

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I therefore see no reason why we should not be able to distinguish repressive censorship from liberal censorship of the written and spoken word. In Britain, until a few years ago, you could perform almost any play you wished — but certain plays, judged to be obscene, had to be performed in private theatrical clubs which were deemed to have a “serious” interest in theater. In the U.S., all of us who grew up using public libraries are familiar with the circumstances under which certain books could be circulated only to adults, while still other books had to be read in the library reading room, under the librarian’s skeptical eye. In both cases, a small minority that was willing to make a serious effort to see an obscene play or read an obscene book could do so. But the impact of obscenity was circumscribed and the quality of public life was only marginally affected.\*

I am not saying it is easy in practice to sustain a distinction between liberal and repressive censorship, especially in the public realm of a democracy, where popular opinion is so vulnerable to demagoguery. Moreover, an acceptable system of liberal censorship is likely to be exceedingly difficult to devise in the United States today, because our educated classes, upon whose judgment a liberal censorship must rest, are so convinced that there is no such thing as a problem of obscenity, or even that there is no such thing as obscenity at all. But, to counterbalance this, there is the further, fortunate truth that the tolerable margin for error is quite large, and single mistakes or single injustices are not all that important.

This possibility, of course, occasions much distress among artists and academics. It is a fact, one that cannot and should not be denied, that any system of censorship is bound, upon occasion, to treat unjustly a particular work of art — to find pornography where there is only

\*It is fairly predictable that some one is going to object that this point of view is “elitist”—that, under a system of liberal censorship, the rich will have privileged access to pornography and obscenity. Yes, of course they will—just as, at present, the rich have privileged access to heroin if they want it. But one would have to be an egalitarian maniac to object to this state of affairs on the grounds of equality.

gentle eroticism, to find obscenity where none really exists, or to find both where its existence ought to be tolerated because it serves a larger moral purpose. Though most works of art are not obscene, and though most obscenity has nothing to do with art, there are some few works of art that are, at least in part, pornographic and/or obscene. There are also some few works of art that are in the special category of the comic-ironic “bawdy” (Boccaccio, Rabelais). It is such works of art that are likely to suffer at the hands of the censor. That is the price one has to be prepared to pay for censorship — even liberal censorship.

But just how high is this price? If you believe, as so many artists seem to believe today, that art is the only sacrosanct activity in our profane and vulgar world — that any man who designates himself an artist thereby acquires a sacred office — then obviously censorship is an intolerable form of sacrilege. But for those of us who do not subscribe to this religion of art, the costs of censorship do not seem so high at all.

If you look at the history of American or English literature, there is precious little damage you can point to as a consequence of the censorship that prevailed throughout most of that history. Very few works of literature — of real literary merit, I mean — ever were suppressed; and those that were, were not suppressed for long. Nor have I noticed, now that censorship of the written word has to all intents and purposes ceased in this country, that hitherto suppressed or repressed masterpieces are flooding the market. Yes, we can now read *Fanny Hill* and the Marquis de Sade. Or, to be more exact, we can now openly purchase them, since many people were able to read them even though they were publicly banned, which is as it should be under a liberal censorship. So how much have literature and the arts gained from the fact that we can all now buy them over the counter, that, indeed, we are all now encouraged to buy them over the counter? They have not gained much that I can see.

And one might also ask a question that is almost never raised: how much has literature lost from the fact that everything is now permitted? It has lost

quite a bit, I should say. In a free market, Gresham’s Law can work for books or theater as efficiently as it does for coinage — driving out the good, establishing the debased. The cultural market in the United States today is being pre-empted by dirty books, dirty movies, dirty theater. A pornographic novel has a far better chance of being published today than a non-pornographic one, and quite a few pretty good novels are not being published at all simply because they are not pornographic, and are therefore less likely to sell. Our cultural condition has not improved as a result of the new freedom. American cultural life wasn’t much to brag about 20 years ago; today one feels ashamed for it.

**“What is at stake is civilization and humanity, nothing less.”**

Just one last point which I dare not leave untouched. If we start censoring pornography or obscenity, shall we not inevitably end up censoring political opinion? A lot of people seem to think this would be the case — which only shows the power of doctrinaire thinking over reality. We had censorship of pornography and obscenity for 150 years, until almost yesterday, and I am not aware that freedom of opinion in this country was in any way diminished as a consequence of this fact. Fortunately for those of us who are liberal, freedom is not indivisible. If it were, the case for liberalism would be indistinguishable from the case for anarchy; and they are two very different things.

But I must repeat and emphasize: what kind of laws we pass governing pornography and obscenity, what kind of censorship — or, since we are still a Federal nation — what kinds of censorship we institute in our various localities may indeed be difficult matters to cope with; nevertheless the real issue is one of principle. I myself subscribe to a liberal view of the enforcement problem: I think that pornography should be illegal *and* available to anyone who

wants it so badly as to make a pretty strenuous effort to get it. We have lived with under-the-counter pornography for centuries now, in a fairly comfortable way. But the issue of principle, of whether it should be over or under the counter, has to be settled before we can reflect on the advantages and disadvantages of alternative modes of censorship. I think the settlement we are living under now, in which obscenity and democracy are regarded as equals is wrong; I believe it is inherently unstable; I think it will, in the long run, be incompatible with any authentic concern for the quality of life in our democracy.

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— Eric Larrabee

### Question . . . (from page 121)

"But pornography, immorality and obscenity are not religious matters. They are not involved under the pleadings before the Court. They are matters entirely independent of the religious-educational constitutional problem placed before the Court.

#### ISSUE

"The issue involved in this cause is whether or not the use of the book in the schools of the defendant [Rochester Community Schools], in fact, comes within the prohibition of the United States Constitutional First and Fourteenth Amendments, thereby constituting state action of the State of Michigan, through its statutory and constitutional school system, namely action in support of religious or anti-religious teachings in the public schools.

#### LAW

"Plaintiff contends that the use of the book is forbidden and prohibited by these constitutional amendments by virtue of the decisions of: *Engel v. Vitale*, 370 US 421, 8 L ed 2D 601, 82 S Ct. 1261 (1962); *Kreshik v. St. Nichols Cathedral*, 363 US 190 80 S Ct. - 1037 (1960); and *Abington School District v. Schempp*, 374 US 203 83 S Ct 1560 (1963).

#### DEFINITION OF RELIGION

"Before dealing with the religious-educational issues involved herein, it is important to first define the term Religious Freedom. It has two sides:

"First, what does one honestly believe, in his mind, to be his relationship with his God or creator? Being a product of honest thought, this requires all persons to respect divergent views of all others. This is religious freedom of the mind.

"But, there is another side: religious action. Through the ages man has transferred his religious beliefs into action. The results have been enormously fruitful.

"Hence, came the greatest attainment in the world. In the arts, in social welfare, and in human ingenuity, initiative and devotional effort. Great progress came from such religious incentive. The

art of Michaelangelo, the leadership of our early universities, the humanity of Charity, all were first resultant from man's religious activity. Thus, because everyone has the right to full respect for his religious beliefs, consequently none should ordinarily impede the good which comes from resultant good religious actions. Unfortunately, the [U.S.] Supreme Court decisions, in sustaining the technical, Constitutional right to full mutual religious freedom, destroyed or injured by indirection, mutual respect for religious belief and action of others.

#### THE WALL BETWEEN RELIGION AND EDUCATION

"Constitutional interpretations make it clear that sectarian instruction may not be given in public schools, and public funds may not be granted for sectarian schools. (*Everson v. Board of Education*, 330 U.S. 1 and *McCullum v. Board of Education*, 333 U.S. 203.)

"This is the Separation Principle, the Wall between Religion and State. A concomitant follows that anti-religious or anti-sectarian instructions may not be had in the public schools. But controversy arises. Not about the theory, but on the individual case problem. Thus, the question of how the separation and wall is established and effected in each particular case is much more difficult.

"Years ago, our Michigan Supreme Court in *Pfeiffer v. Board of Education*, 118 Mich. 560, seemed to favor Bible-reading. Now, Bible-reading has been outlawed, but the guidelines for reasonable separation of religion from government are left nebulous and uncertain. It is difficult to see blasphemy and ridicule of any given religion, through novels, become acceptable and Constitutionally suitable in public education. Whether or not the book in question is Constitutionally violative because a destructive implement against religious belief, certainly the language concerning God and Christ is offensive to any believer.

"Hence, the question: does destruction of religion by the use of a 'yellow back' novel, escape the [U.S.] Supreme Court edict? Is there any difference between slightly coerced but unconstitutional prayer to God and a novel's in-

direct, coercive influence, whether for or against religion? On the other hand, if novels are to be purged from school libraries, who is to decide which novels are offensive? Whose religious background is entirely unbiased? But is not the power of emotionally worded novels a greater force than any unison mumbling of prayers? Then again, are we to reject the reading of the ten commandments on the one hand, yet permit blasphemy in anti-religious novels?

"The question put by the plaintiff and by Justice Douglas in *McGowan v. Maryland*, 366 U.S. 420, is whether or not, by reason of the First Amendment, government is commanded 'to have no interest in the theology or ritual . . . ' and on those matters, 'Government must be neutral.' But here, the present question goes further: Do all novels lie outside the wall against religious or anti-religious teachings? Or, are only certain novels violative of the protective walls? Who is to decide as to each book? What happens to such books as *The Robe*, *Jeanne d'Arc* and *Pilgrim's Progress*; and who is to decide which books are to be excluded?

"Certainly, like all matters of discretion and judgment, the decision in the case of each book is for the people — the parents in each local community. For, it is their sensitivity which is involved, their children who reap the benefits or injuries.

"To the writer, a licentious, filthy novel, indirectly arguing against religion is as violative of the Wall Theory as the reading of the *Bible*; it may be far more injurious. Today's educational world has great demands. Young people need to be challenged by and induced into the fields of better law and order, greater science, advanced physics and chemistry, medicine, social welfare, greater justice and the like. At best, youth can read far too little of these.

"The schools of this country should be too busy toward these objectives to quibble within themselves over cheap, novel writings of degrading influence and barren of educational value. If a novel has marginal or no value, why not reject it and avoid conflict?

"If we are to measure the effect of the book in question as valid or Constitu-

tionally invalid, it is best to think in terms of what may happen if most students are induced to read it. Forgetting, for the moment, the reaction of parents who indeed always seek the very best of life for their children, the vital question is important. Namely, what substantial effect on most children is created by the book, insofar as religious belief is concerned? To any reader, there could be only one answer. Most of such youthful readers would be influenced against the Christian religion.

"Unrestrained freedom to experience all self-destruction and decrepitation is licentious freedom. Licentiousness has bred today's idolent (sic) hippies. Licentiousness fosters the violence-prone, selfish, young insurrectionists of today. This, our schools must be relied upon to change; by a new influence for good; and by teaching restraint and decency.

"Depravity, immorality, psychosis and sacrilege are joined together in the book by the aid of cheap vulgarity. They produce an effect against the Christian religion; for their ridicule is a sharp tool.

"The purpose of education is to induce children to think for themselves; to have the desire to search for truth and wisdom. Both to aid themselves and to improve our world. In this search, truth in history and of factual information about all religions must be available. But no child should be placed under prejudicial influence. Too much depends upon true concepts of both history and verification of human behavior.

#### CONCLUSION

"The book should be removed from the school library. An Order may enter if necessary. But, I choose to believe that the book was not read carefully by anyone and is, in reality, a 'yellow back' non-entity, which somehow slipped in by mistake, into much more appropriate reading material. I suggest to the school board and the school officials in charge that they themselves read and reject the material in the exercise of their selective privilege, because derogatory to the defendant's fine school system. The book is worthless, even if religion were not involved."

In June, Judge Moore slightly altered his original opinion and issued a *mandamus judgment* ordering that the book "be forthwith removed from the defendant's school library. It is further ordered that the book may not be fostered, promoted or recommended for use in the defendant's school system; and defendant is ordered to desist accordingly. It is further ordered that the book is banned from the school library only so long as is necessary to prevent its use as promoted or recommended reading material in the course of study in defendant's school system. The book may be returned to the library shelves of the defendant school if and when the defendant has definitely and conclusively withdrawn and desisted from the promotion, recommendation and use of the book in educational courses of the defendant school system . . ."

To support the *mandamus judgment*, Judge Moore made the following points under the heading "Findings":

" . . . 4. The school, in either its purpose or the resultant effect, may not foster anything which constitutes advancement or inhibition of religion.

"5. If either advancement or inhibition occurs by school rule, activity or instruction, the Constitution is violated . . .

"14. Religious or anti-religious writings, whether the *Bible* or novels or any other type may be read and studied in schools. . . . But they must be available objectively and without approval or recommendation. Their use must be only for literary or historical qualities . . .

"19. The issues in this case have to do solely with the doctrine of separation of religion and state, and there is nothing before the court on which to rule concerning mere obscenity, pornography or deviated immorality . . ."

Among items which Judge Moore enumerates as "Factual Findings" are the following:

" . . . 20. The book in question, *Slaughterhouse Five; or the Children's Crusade*, is anti-Christian. Numerous pages are blasphemous, de-

rivative and sacrilegious of the Christian religion and its believers. It inhibits religion, as hereinafter shown. Its selection and recommendation by the defendant school as one of twenty-five current novels on a selected reading list of a course of school instruction, violates the Constitutional Amendments. It is the selection and recommendation by the school, not alone the books of anti-religious writings, which violate the Constitution . . . .

"32. *Freedom of the Press* is not involved here. Any book reciting and advocating a religious belief or an agnostic or atheist viewpoint may be part of the school or public literature in any public school library or the Library of Congress. But it is so available simply for historical and educational purposes . . . .

"38. Free speech or writings constitute a free expression of thought and mind. They may not be suppressed, no matter how erroneous. Yet, when they propound or inhibit religion and are accompanied or supported by some overt action of government, such as a school rule, a school activity or a school course instruction, they violate the separation of Religion Doctrine . . . ."

Believing that Judge Moore's decision and *mandamus judgment* could have far-reaching repercussions in Michigan educational institutions, Rochester Community Schools officials queried educators in various subject areas to assess the potential effect of the opinion on their teaching. Among the responses received are the following, which refer to psychology, biology, philosophy and history:

*Statement of Donald C. Hildum, Department of Psychology, Michigan State University at Rochester:*

"We have been asked to consider the possible effects on the schools of the application of the recent decision by Judge Moore banning the assignment or recommendation of any books that would tend to promote or inhibit religion.

"I have taught psychology, social science, and occasionally English to college students for fifteen years. During this time, I have found that religious questions come up naturally and unavoidably at some time in almost every course. To select readings, as the judge's decision asks me to, which would not raise such questions, would be to empty the course of its content — and students would raise these points on their own anyway. To suppress or ignore the questions once they are raised is to say that either the course or the religion is not important. The Constitution prevents me from preaching or proselytizing for my own religious views, and a reasonable extension of this prohibition — in ethical terms, at least, if not in legal, requires that I should not preach against or ridicule religion. The only remaining solution, which I have tried to follow, is to accept religious differences as serious and worthy of consideration and respect, to be treated evenhandedly, without pushing my own beliefs but without hiding them.

"My particular field, psychology, is not a major subject in high school, but where it is taught, mostly in the form of courses on adjustment or the family, it cuts very close to the concerns of religion. Many high school students have profited from an opportunity to discuss love, sex, marriage, child rearing, aging and death with someone professionally trained and outside the strains of their own family relationships. All of these matters are intimately tied up with religious belief, so to obey Judge Moore's court order by removing religious content would be to do away with such courses entirely.

"I am puzzled by the applause that religious people have given to this court decision because I would have expected them to be in the forefront of those wishing the schools to treat matters of religion and moral values as being important enough to talk about. As a parent and a religious person, I expect the schools to support in my children the belief that religious, moral, and political questions are of the utmost importance in their lives, not to convince them

by a court-imposed conspiracy of silence that these things which I care about are a silly waste of time. If dealing with important questions in school results in some trial of faith or shaking of convictions in our children, such is the price of democracy and free will, and we should pay it gladly.

"I am dismayed by the anti-book spokesmen for a number of reasons. As an educator, I know that much of the unrest among high school and college students grows out of a conviction that schools are deliberately not teaching about what is important. To set out on a campaign to remove all traces of controversy from the schools is to verify the darkest suspicions of the younger generation, and to make them lose respect for their elders. American schools, however clumsily, have always tried to build character in their students — a process which requires both that students realize that other people hold beliefs different from their own and that they learn to make a capable defense of their own beliefs. The application of Judge Moore's decision would rob them of both opportunities.

"I am dismayed further, however, by the signs that those opposing the appeal of this decision don't know a friend when they see one. Surely no teacher of English in the public schools would regard his job as done if his students' response to a book such as *Slaughterhouse Five* were as superficial as some of the complaints about it have been. The judge's decision, for instance, complained about the passage where a scientific observer verifies that Jesus was dead when he was taken from the cross. It is strange that this should be thought antagonistic to Christianity, since it is an important item in the Christian creed.

"More important, it seems reasonable to say that no work of literature is worth special study unless it raises precisely those questions of value which Judge Moore's decision declares out of bounds. Vonnegut, in *Slaughterhouse Five*, forces us to consider what the real message of Christianity is, and to ask ourselves why supposedly Christian people have disregarded it. The name of his main character is a reference to two

earlier works deeply involved with religious questions: "Pilgrim" to remind us that modern man has constructed a world in which John Bunyan's pilgrim couldn't make progress at all, but would become "unstuck in time;" and "Billy" to refer to Melville's Billy Budd, who meets without complaint his execution by the representative of an unjust God. Going back still further, *Slaughterhouse Five* echoes the questions of the book of Job: the obscenities that Billy Pilgrim sees and hears are a modern version of the obscene spectacle of Job, the faithful servant of God, sitting on an ash heap, his body covered with filthy sores. If religion is still alive in our society, it should be demanding that such issues be faced by young people.

"Surely school systems will always find religious issues difficult and controversial, but to try to settle them by indiscriminate book banning is like doing surgery with a meat cleaver. Let us ask, in the case before us, that a higher court restore the Constitution to recognizable shape. Then, let us ask our board of education and school administrators to satisfy themselves and us that religion is being dealt with in our schools with the tolerance, fairness, seriousness and respect which it deserves."

*Statement of M. V. Riley, M.A., Ph.D.; Associate Professor of Biological Sciences, Oakland University:*

"The impact of Judge Moore's decision on the teaching of Biology is not immediately apparent, but is nonetheless of far-reaching consequence. Religion or anti-religion are not topics of biological investigation; neither do they appear to interfere with the rational scientific study of living organisms. However, certain concepts in biology, each fundamental to its comprehensive understanding, do touch on man's beliefs. First, evolution. This is a theory now accepted as fact by a large number of people throughout the world and not necessarily seen as being in conflict with religious beliefs. But it clearly contradicts certain religious writings, especially the account of Genesis in the *Bible* which constitutes the entire foundation of many people's faith and is a central dogma of Jehovah's Witnesses and some

Lutherans. Is man an animal, or was he created in God's image? Some have one answer, some the other, and many find a happy compromise, reconciling biological evidence with Divine inspiration.

**"We cannot have intelligence without understanding . . ."**

"This is as it should be, each with freedom to chose his religion, his faith, his beliefs. But one cannot be free to choose without an educated mind, and *this* Judge Moore would deny us. The *Bible* and Darwin's theory may be on the library shelves — but not in the classroom. A teacher may neither explain nor interpret the text. Does the Judge really believe that our children can understand the *Bible*, the *Koran*, the *Torah* or the Theory of Evolution without a teacher? We cannot have intelligence without understanding, and a subject must be studied before it can be accepted or rejected. Evolution may seem to some to be a topic that we could do without, but it is a theory that welds together an enormous jumble of facts, and this makes biology more coherent and comprehensible. Without a meaningful course in biology from where would tomorrow's doctors come?

"The origin of life and the relationship of brain to mind and soul are also matters of belief and religion on which studies in biology can throw a different light. May the ideas not be discussed in school?

"Finally, consider the importance of biology in our everyday lives. Shall we teach about sex without considering at the same time the morals, ethics and standards of the world in which we live? To teach sex without teaching of love is to promote a promiscuous, amoral world, which is surely anti-religious. But to discuss love is impossible without reference to culture, faith, and religion.

"Judge Moore's decision must be appealed so that biology may be taught and explained fully and honestly to children who may then, with open and knowledgeable minds, accept or reject its facts, theories or implications."

*Statement of Richard Burke, Chairman, Department of Philosophy, Oakland University:*

"I was dismayed to read of the decision of Judge Moore in the case of *Slaughterhouse Five*, since it seems to bear directly on my own professional activities as well. As Chairman of the Interdepartmental Program in Religious Studies at Oakland University, which is also in Judge Moore's district, I am naturally concerned, to be sure, that my program is Constitutional. If Judge Moore's opinion is allowed to stand, my program is clearly in violation of it, and must close down immediately. For, the courses in my program not only recommend but *require* the reading of books which are not only literary or historical treatments of topics bearing on religion indirectly, but direct advocacy of religious positions and doctrines: the Old and New Testaments, for example.

"My own position is that such courses are not only permissible in public schools, in high school as well as in college, but are essential in any education that tries to prepare students to think for themselves about important issues. The question of religion is no different, as I see it, from that of politics, race, sex, or any other controversial issue; Americans simply have to realize that they live in a pluralistic society in which people do not agree on these issues, that this is probably a good thing, and that nothing but harm comes from trying to keep such issues out of the schools. The harm done is at least twofold. By maintaining a conspiracy of silence on controversial matters, the schools convict themselves of "irrelevance," as young people from all parts of the political spectrum agree. Even worse, the inevitable effect of omitting religion, politics, race, etc., from the instructional program is to foster the impression that such matters are purely emotional and cannot be dealt with rationally. Is it any wonder, then, that when we encounter people whose attitudes on such questions differ from our own, and we cannot simply ignore them, we almost immediately resort to violence? The great advantage of public schools over private schools in a



democracy is that they throw people with different values and attitudes together, making it at least possible that they will learn to live with each other. If our society breaks apart, as it is showing real signs of doing today, it will be largely because we have wasted this opportunity.

"Let me return to the specific issue of religion. Last year, before proposing the Program of Religious Studies at Oakland, I made a careful study of the decision of the [U.S.] Supreme Court in the famous "prayer in public schools" case in 1963. The court drew a basic distinction between the teaching of religion, which violates the First Amendment to the Constitution, and teaching about religion. Far from being unconstitutional, the latter was a necessary part of any program that claims to offer a "liberal education." Satisfied that the court had spoken on the issue, I went ahead and developed my program.

"Evidently the court thought that this is an important distinction. What does it mean? One thing it *cannot* mean, I think, is that any course that "tends to foster or inhibit any religious position, including atheism" [Judge Moore] is to be forbidden. Almost *any* course in literature, history, social studies, psychology, or philosophy may do this indirectly. They all deal with the same human experience from which religion grows, and on which it is nourished. If they have any effect at all on the student's own ideas and values, they are *bound* to affect his religion. How can one study Shakespeare, for example, without deepening one's understanding of love, fear, faith, and conscience? What else do we study Shakespeare *for*? But, this is at the same time to deepen whatever religious feelings we may have.

"The court also cannot have meant that the course must be perfectly "objective," in the sense that the instructor remains neutral and impartial about the material being studied. This is an impossible ideal, since at the very least the instructor chooses the books and structures the course; and it is probably bad pedagogy any way for the instructor to pretend to an indifference he does not

feel. Incidentally, the complete *omission* of religion from a program of instruction, as Judge Moore recommends, is not "objective" either; it "tends to foster" the impression that religion is a private, non-cognitive matter (as in modern Protestantism) rather than also public and cognitive (as in most Judaism and Roman Catholicism, not to mention Islam, Hinduism, etc.).

"What the decision of the Supreme Court *must* mean, I submit, is that in religion — as in other areas — students must be educated rather than indoctrinated. They must be encouraged to reflect on the experience of others (chiefly through books) in the light of their own experience, and taught ways of making this reflection more effective, rather than brainwashed into accepting certain experiences as "valid" and rejecting the others as "false." This involves another kind of "objectivity;" by reflecting on one's own experience, making an object out of it, one gains a broader perspective, a freedom from unconscious bias and provincialism. In this sense, teaching about religion can be objective, and can be a wonderful force for freedom and tolerance. Since it is the area most often left in our society to private, subjective opinion, I would argue that the study of religion is not only a necessary part of a liberal education, but its most important part.

"I will certainly admit that this conception of education, in contrast to indoctrination, is an ideal which many teachers, including myself, don't always measure up to. We all have a natural tendency to reward students who agree with us and punish those who don't. Some of us give in to this temptation more often than others, and in more important ways. At some point this becomes grounds for censure of a teacher, or even dismissal for incompetence. The point I would make, however, is that while it *is* important for teachers to respect the rights of students to their own opinions in the area of religion, it is no less important in other areas; and, that the possibility of incompetent teaching is no reason to exclude controversial subjects from the classroom. To sum up, let us admit our differences and deal with them openly and ration-

ally, with mutual respect; the alternative is social suicide."

*Statement of Charles W. Akers, Department of History, Michigan State University at Rochester:*

"The recent judicial decision concerning the use of literature with religious implications in the Rochester Community Schools poses serious problems for teachers of history. Perhaps more than teachers in any other field of study, historians have been pressured by various patriotic, ethnic, and religious groups to select and interpret historical data in such a way as to serve particular interests. For example, it is no secret that in the past, publishers have been forced to adapt textbooks for use in Catholic or Protestant and Southern or Northern schools. Now we face the frightening prospect of the courts becoming accomplices of those citizens and religious organizations who seek some means to influence the teacher's treatment of the religious dimension of human history.

"For the teacher to dodge the problem by ignoring religious aspects is to distort the historical record. Man is a believing creature for whom the act of faith has often been central to his existence. One cannot hope to understand the nineteenth-century American belief in manifest destiny without knowledge of the ancient Jewish covenant with God. The Chinese social order becomes meaningful only in the full context of Confucian ethics. Should one be expected to study Gothic architecture while remaining ignorant of St. Thomas Aquinas? How important were Nat

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"There is scarcely any record of a book's total disappearance being caused by censor's fires. Somewhere, almost invariably, a copy has survived which can be multiplied and passed on to succeeding generations. Only when the ideas expressed in books have lost their interest do the books vanish."

— Robert B. Downs

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Turner's religious visions in his leadership of the 1831 slave rebellion? Or, take the case of Isaac Backus, the eighteenth-century New England Baptist preacher now belatedly gaining recognition by historians as one of the most important American voices for religious freedom. Must he be avoided because of his zealous advocacy of evangelical religion?

"Many high school, as well as college teachers, use the documentary approach to history. Students are required to analyze a selection of documents on significant topics from which to draw their own conclusions as training in the use of historical method. Are religious documents to be excluded from such study? A class in modern American history might want to read, in addition to political, economic, and social documents, extracts from the writings of religious leaders and critics of organized religion. Though the purpose be strictly historical and every precaution against indoctrination be observed, some parents could maintain that the religious faith in which they had raised their children was being challenged through exposure to a variety of religious views under the guise of history. Furthermore, no anthology of religious documents is likely to be sufficiently inclusive to convince all concerned parents that it represents a balanced selection.

"This discussion from the perspective of the history teacher suggests that if the curriculum and teaching methods of public education in a pluralistic society are not to be severely crippled, the objective treatment of religious-related topics must be permitted and even encouraged. The main hope of achieving the necessary objectivity lies in the quality and training of the teacher. If he is thoroughly grounded in his discipline and conversant with significant new research in his subject, he can better prevent his personal religious attitudes from coloring his teaching. I am reminded here that Perry Miller, a Harvard professor of English literature who admitted to being an atheist, has done more than any other scholar to revive respect for the mind of American Puritanism. The successful teacher will be alert to and careful not to offend the

religious sensitivities of his students. He will demonstrate a genuine respect for all faiths, recognizing that his own religious presuppositions rest upon some step of faith. It is worth noting that many teachers who think of themselves as liberal in religion fail to recognize that their position is fully as "religious" as that of the zealous true believer of any dogmatic sect.

"Most school systems seem to have been lax in developing guidelines for the objective treatment of subjects touching on religious belief. Whatever the past practices, the responsibility in the future rests with teachers, administrators, school boards, and parents. If no consensus exists, one must be reached or public schools cannot function. But, consensus can be achieved only at the community level. A court willing to ban single books used in a high school curriculum encourages special pleaders for particular religious orientations to avoid the necessity of achieving consensus. At best, the results of this and future litigation to control what students in public schools are permitted to read can only be negative. Even outstanding teachers will be tempted to regard the treatment of religious topics as too controversial, and a major area of human life will, by default, be relegated to insignificance. In that event, the teaching of history will suffer more than most other fields. At worst, the litigious path to curriculum control will prove so divisive as to threaten the future of public education in the United States."

Agreeing with opinions expressed in the above statements, residents of Rochester and Oakland County established the Rochester Community Schools Appeal Fund to raise money to appeal Judge Moore's decision. A good deal of the necessary money was raised in the community, and — along with a \$1,000 grant from the Freedom to Read Foundation — the funds were sufficient to file an appeal in late August. The appeal is presently before the Michigan Supreme Court.

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"Since the invention of printing, book burning has lagged seriously behind book production. Suggestions have recently been offered from all sides, especially the left side and the right side, about how to close this dangerous gap. Burning the individual book is slow and toilsome, and many scores and even hundreds of copies of a book may be produced while half a dozen copies are being burned. One proposal, under serious consideration in some quarters, is to burn libraries instead of books. Another plan envisages burning publishing houses." — Richard Armour.

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### And Pornography's Responsible For All That?

Question: What has been the social effect of the ever-rising manufacture and distribution of pornography?

— *Baltimore Evening Star*

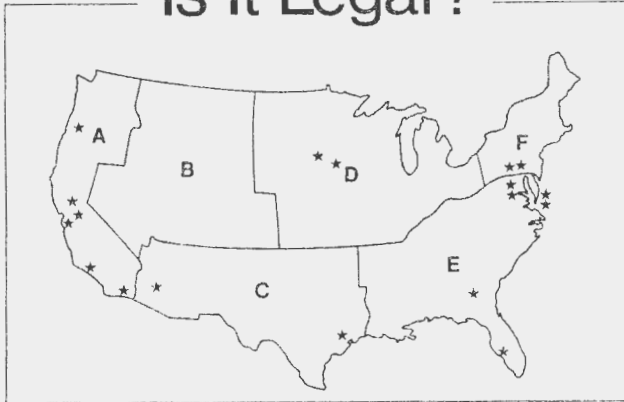
Answer: As I look on the country, the thing that disturbs me is the lack of love. There is warfare between husband and wife, father and son, black and white, union and management, this nation and that nation. This division is the direct effect of a no-love media. And certainly, in pornography, there is no love. In other words, pornography tends to make a highly introverted, non-loving personality. When you have this amount of pornography projected on the nation, you're bound to have an effect similar to the cause. — The Rev. Morton A. Hill, president of Morality in Media; former member of the National Commission on Obscenity and Pornography.

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"Evil is in the mind of the beholder. . . . The problem with the Father Hills [Rev. Morton A. Hill, president of Morality in Media and former member of the National Commission on Obscenity and Pornography] is that they would like to use the apparatus of . . . governments as a mechanism for imposing their particular moral code on society." — Ernest Mazey, Executive Director, Detroit ACLU.  
*Detroit Free Press*, September 6.

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## Is It Legal?



### PACIFIC COAST STATES (A)

#### Los Angeles, Cal.

A federal grand jury returned indictments charging eleven persons and eight corporations with commercial distribution of pornographic materials through the mails and in interstate commerce. Federal attorneys, working with postal inspectors in the third major anti-pornography action by U. S. Attorney Robert L. Meyer's office, turned up the evidence resulting in the indictments. Five persons and four corporations were indicted on thirty-one counts of conspiracy to use the mails to distribute obscene materials. One person and two corporations were indicted on twenty-five counts of mailing obscene advertisements. Three persons and two corporations were indicted on twelve counts for mailing obscene advertisements. Two persons were indicted for interstate transportation of obscene films. Reported in: *Los Angeles Times*, August 17.

#### Marysville, Cal.

Councilman William Huntley suggested that pornography dealers be issued business licenses so costly that dealers would find it unprofitable to conduct business within the city. Pornography bookshops have been operating without licenses because the city council does not want to appear to sanction pornography sales by issuing business licenses. The councilmen and public officials are considering ways to close down the shops. Reported in: *Sacramento Bee*, August 19.

#### Sacramento, Cal.

By a 9-to-0 vote, the California State Board of Education refused to adopt new social science textbooks and created a task force to expunge what was described as racism, ethnic distortions, and misstatements about minorities in American history. The decision resulted from organized efforts of school administrators, teachers, parents, students, and citizens who said adoption of the books would violate a state law requiring that texts

“correctly portray the contributions of minorities” in American life. Reported in: *Los Angeles Times*, September 10.

#### San Clemente, Cal.

The city council denied a business license for an “adult” book store on the city's main thoroughfare. In denying the request, the council instructed the city attorney to prepare an ordinance empowering the council to forbid sale of pornographic books and magazines. Reported in: *San Diego Union*, August 6.

#### San Francisco, Cal.

The American Civil Liberties Union filed suit in federal court on behalf of Bruce Henderson, a *Livermore Independent* reporter, who claims that Alameda County Sheriff Frank Madigan is trying to prevent him from investigating conditions at the Santa Rita Rehabilitation Center. Henderson says he was prevented from interviewing Santa Rita inmates about reports of abuse and poor food. Madigan has a policy of not allowing interviews of inmates. The ACLU suit charges that Madigan's rule violates the First Amendment and the public's right to know and asks that he be enjoined from interfering with press access to prisoners. Reported in: *San Francisco Chronicle*, August 20.

#### Salem, Ore.

The Oregon Supreme Court cleared the ballot title on a measure to refer the new state obscenity law to voters in a statewide referendum in November. The law retains strict controls over materials for minors but eliminates legal attempts to deal with allegedly obscene matter sold to adults. Reported in: *Salem Statesman*, August 13.

### SOUTHWESTERN STATES (C)

#### Phoenix, Ariz.

City police and prosecutors are preparing to enforce Arizona's new law banning the sale or distribution of obscene materials within 4,000 feet of public or private elementary or high schools or public parks. The city prosecutor has reports of twelve bookstores operating within those limits which have sold or exhibited material considered obscene by the police. Under the new law, a violator can be judged a public nuisance and ordered to cease actions that make him a nuisance. Reported in: *Phoenix Republic*, August 14.

#### Houston, Tex.

In an attempt to enforce and test the state's 1969 Protection of Minors from Harmful Materials Law, the Pasadena Obscenity Commission will distribute a questionnaire to 500 randomly selected citizens to determine a community standard on harmful materials for minors. City Councilman Ray Mease, who sponsored the com-

mission's formation, told the members that they should not censor materials, but only determine standards by which the city could judge whether materials were obscene for minors. Reported in: *Houston Post*, August 18.

## MIDWESTERN STATES (D)

### Des Moines, Ia.

Elizabeth A. Nolan, assistant state attorney general, issued the opinion that library call slips are not confidential and that making such records public information does not violate any Constitutional right of free speech. The opinion was rendered in response to a request from Edward F. Samore, Woodbury County Attorney. He asked whether law-enforcement personnel and others may have access to call slips. Mrs. Nolan stated that the identity of anyone checking out public library materials is merely incidental to the effective control of circulation and inventory. She also said, "the provisions of the First Amendment of the Constitution do not give an individual the power to borrow public property in secret; nor, do the limited exceptions to the public records law appear to have application in this case." Reported in: *Sioux City Journal*, August 27.

### Ida Grove, Ia.

William Dodds and Gary Mahood, fired last spring from their teaching positions at Ida Grove High School, filed suit against Superintendent Keith Tadlock and school board members, alleging violation of constitutional rights of freedom of expression, association, and assembly and their right of petition. They allege they were fired because they signed a letter to the school board asking to be informed, prior to their contract deadline, whether the principal's contract would be renewed. All but one of Ida Grove High School's teachers signed the letter, but Dodds was president and Mahood was professional rights and responsibilities chairman of the local teachers association. Stating that they were warned by Tadlock that they would be fired as "agitators" if they didn't resign, Dodds and Mahood believe their firing was a reprisal for their "expression of ideas, thoughts, or associations." They are suing for reinstatement and \$50,000 each in damages. Reported in: *Des Moines Register*, July 24.

## SOUTHERN STATES (E)

### Washington, D.C.

The House of Representatives passed and sent to the Senate an anti-pornography bill called the "toughest" Congress has ever produced. The 15-page bill explicitly defines obscene materials, saying: "(1) 'obscene' includes matter which has its predominant appeal to the prurient interest when considered as a whole by contemporary community standards; and (2) 'prurient in-

terest' includes a shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation." Other portions of the bill preclude the use of the mails "to make a sale, delivery, or distribution to a minor, or an offer for a sale, delivery, or distribution to a minor of matter which depicts nudity, sexual conduct, or sadomasochistic abuse." The bill also provides that mailers of "questionable" materials be required to place a symbol on the envelope when sent out in unsolicited mailings. Reported in: *Washington Star*, July 24.

### Washington, D.C.

The Federal Communications Commission upheld the refusal by CBS and NBC to sell air time to the Communications Workers of America. The union wished to buy ninety-second radio spots to explain terms of its recently negotiated contract with the American Telephone and Telegraph Company to 500,000 union members. Reported in: *Washington Post*, August 7.

### Washington, D.C.

U. S. Rep. Hastings Keith (R-Mass.) proposed a bill to "prevent distortion of events by radio and television broadcasters." The bill would make it illegal to stage an event and let the viewer believe it is happening spontaneously, to present an interview as unrehearsed when it is not, and to rearrange portions of interviews without informing the viewer. Reported in: *Boston Globe*, August 9.

### Washington, D.C.

John B. Poindexter, Federal Trade Commission (FTC) hearing examiner, issued a subpoena to Arthur E. Rowse, a Hearst Corporation syndicated columnist, for documents, notes, and other materials used by Rowse for an article published July 11. In the article, Rowse praised Rep. Fred B. Rooney (D-Pa.) for pressuring the FTC to take action against allegedly misleading sales tactics used by magazine publishers. The Hearst Corporation, itself a target of FTC charges of deceptive practices, requested that the subpoena be issued to get evidence to support its defense against the charges. Through an ACLU attorney, Rowse has asked that the subpoena be quashed. Reported in: *New York Times*, September 2.

### St. Petersburg, Fla.

A projectionist union spokesman said that licensing of movie theater projectionists in St. Petersburg would reduce the amount of pornographic movies being shown. By requiring automatic license suspension of a projectionist who shows a pornographic movie, the theater owners would be without projectionists, and, the spokesman added, the city would witness a decline in porno-theaters. The city council was scheduled to study such licensing, but the item was withdrawn from its agenda. Reported in: *St. Petersburg Independent*, August 25.

## Atlanta, Ga.

Tom Millican, who distributes *Hip* magazine through street sales, filed suit in U. S. District Court claiming \$35,000 damages against Police Lieutenant K. E. Burnette. Burnette arrested Millican under an ordinance barring distribution to minors of materials showing female breasts with "less than a fully opaque covering." Millican charges that Burnette used the ordinance to "harass and intimidate" him for selling an issue of *Hip* with a nude woman on the cover, while Burnette ignored other magazines with similar pictures available in the area. Millican claims his salesmen were also threatened with arrest unless they stop selling the magazine. Reported in: *Atlanta Journal*, August 9.

## NORTH ATLANTIC STATES (F)

### Harrisburg, Pa.

By a vote of 39 to 8, the Pennsylvania State Senate passed a measure which, if passed by the House, will prohibit showing X-rated movies at outdoor theaters. Under the bill, offenders will be subject to \$100 fines and costs of prosecution. Reported in: *Ardmore (Pa.) Main Line Chronicle*, July 29.

### Harrisburg, Pa.

According to the *Philadelphia Inquirer*, several bills offered in the Pennsylvania State House of Representatives would limit the public's right of access to information about legislation. The bills, affecting various classifications of local government, would allow summaries of ordinances to be published instead of entire ordinances. In an editorial, the *Inquirer* opposed the bills and said, "By allowing summaries, the bills allow local officials to emphasize what they prefer in public notices." Reported in: *Philadelphia Inquirer*, September 11.

## Commission on Obscenity and Pornography Technical Reports

The Office for Intellectual Freedom has received six volumes of the *Technical Reports of the Commission on Obscenity and Pornography*. The Reports are available from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C., 20402. The volumes, titles, stock numbers, and prices are as follows:

V. 1, *Preliminary Studies*, #5256-0002, \$1.75; v. 2, *Legal Analysis*, #5256-0003, \$2.00; v. 3, *The Marketplace: The Industry*, #5256-0004, \$1.75; v. 4, *The Marketplace: Empirical Studies*, #5256-0005, \$2.25; v. 5, *Societal Control Mechanisms*, #5256-0006, \$3.25; v. 6, *National Survey*, #5256-0007, \$2.00.

## Studies and Surveys

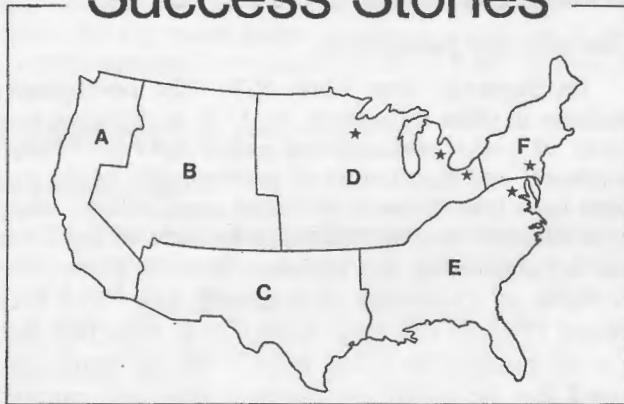
### Obscenity and pornography

(A Survey). *New York, N.Y.* The pornography business in cities throughout the U. S. is declining as a result of police pressure and public apathy. Though producers and distributors of pornographic books and films have been favored by recent court rulings, many have suffered financial hardships because of legal fees and are abandoning the business. Alex de Renzy, film producer of *Censorship in Denmark*, says "I've been busted 17 times and spent \$100,000 in legal fees, and I've no stomach for it any more." Mr. de Renzy also noted that the public has become jaded with pornography: "After you've seen it a couple of times, that's enough." Porno shops on New York's 42nd Street have reported declines in business because, they claim, the small theaters which show explicitly sexual films are drawing away the bookstore trade. But many of the theaters showing hard-core pornography have also experienced sharp declines — up to 70 percent in some cases — during recent months. They attribute part of the disinterest to boredom: "Our customers get tired of seeing the same thing week after week." Al Goldstein, executive editor of the pioneer underground sex newspaper, *Screw*, says his publication's decline is a result of police harassment. Pressure on dealers has significantly reduced the distributor outlets from 900 to 250. The publication provides lawyers and pays legal costs of newsstand dealers experiencing entanglement with the law because of *Screw*, and has paid legal fees of \$95,000 to date. The failure of Copenhagen's 1971 "International Porno Fair" is evidence of public apathy on the international scene. While 1969's fair drew 48,000 paying customers, this year's event attracted only 4,500. The show closed ahead of schedule with a loss of \$75,000. Its organizer reportedly declared: "Pornography is dead." Some observers have attributed the widespread closing of porno shops in Denmark to that country's elimination of all laws governing pornography. Reported in: *Wall Street Journal*, August 12.

### Obscenity and pornography

(A Study). *Washington, D.C.* John S. Sampson, researcher for the Commission on Obscenity and Pornography, said that American pornography has become as explicit as anything in Denmark. In his 200-page report on American pornography traffic made for the Commission and published in August, Sampson said previous unofficial estimates of \$2.5 billion-a-year as porno-industry receipts is exaggerated. He estimates sales at \$200 million a year for the entire industry, with \$5-to-\$10 million received from the sale of hardcore pornography. Reported in: *Baltimore Sun*, September 1.

# Success Stories



## MIDWESTERN STATES (D)

### Detroit, Michigan

Representatives of three professional news organizations announced formation of a News Freedom Council to "campaign against any effort, by government or otherwise, to block the path of legitimate newsgathering." The organization was formed by representatives of the Michigan Press Association, the Michigan Associated Press Editors Association, and the Detroit chapter of Sigma Delta Chi, professional journalism fraternity. Reported in: *Flint (Mich.) Journal*, June 15.

### St. Paul, Minn.

A statewide Minnesota Press Council was established to allow citizens to challenge newspaper performance and ethics. Patterned after the British Press Council, the Minnesota group is the first of its kind in the U. S. While the eighteen-member council has no enforcement powers, it will attempt to provide review privileges to aggrieved newspaper readers in the state. Rules under which the council will operate state that grievances can be brought only against a newspaper, not against individual employees; grievances cannot be related to legal actions such as libel or slander; and, efforts at direct negotiations must be exhausted before the council will start investigation and review. The only sanction the council can impose is adverse publicity. Reported in: *Washington Post*, September 10.

### Painesville, Ohio

Two hundred parents presented the Mentor Board of Education with a request that certain "obscene" books be removed from an eleventh-grade reading list at Mentor High School. Books labeled as "obscene" included *Rosemary's Baby*, *Catch 22*, and the *Electric Koolaid Acid Test*. The board denied the request and said it does not intend to become "a censorship or screening body" for books some residents contend are obscene. Reported in: *Marion (Ohio) Star*, July 15.

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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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## SOUTHERN STATES (E)

### Washington, D.C.

Sen. Sam J. Ervin, Jr. (D-N.C.), chairman of the Senate Subcommittee on Constitutional Rights, announced that his subcommittee will undertake a broad study of the condition of freedom of the press in America. The goal is to promote a greater public appreciation for the role of a free press in a democratic society. Ervin said, "Recent developments, including the subpoenaing of journalists by grand juries and congressional committees, efforts to secure injunctions against certain newspapers, the use of assumed press credentials for investigative covers, and new fears about the use of broadcast licensing for intimidation and censorship have brought into sharp relief existing concern about the relationship between government and the press." Reported in: *Dallas Daily News*, September 8.

## NORTH ATLANTIC STATES (F)

### New York, N.Y.

Times Square porno-trade businesses became more decorous outside than indoors as the state's new law barring public exhibition of pornography went into effect September 1. The law, aimed at bookstore windows and theater entrances, bans display of pornography from places "easily visible from public thoroughfares." Most bookstores and theaters are complying with the provisions of the law which subjects violators to a year in jail, a maximum fine of \$1,000, or both. One 42nd Street bookstore displayed a huge drawing of a naked woman in the window with the figure's breasts hidden by a label declaring "censored." *Variety*, the show business weekly newspaper, featured a front-page story about the law's effect with a headline proclaiming: "It's Brillo on the Outside but Still Bawdy Inside." Reported in: *New York Times*, September 2.

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"A society that attempts to put education and science and scholarship in strait jackets will find that in strait jackets there can be no movement, and that the result will be intellectual atrophy."

— Henry Steele Commager

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## International . . . (from page 125)

tion (BBC) because of its "authoritarian aims." However, the program is being televised by the commercially financed Independent Television Authority this fall. The September 7 decision of BBC said: "Right answers are demanded and praised, and a research report refers to the program maker's aim to change children's behavior. This sounds like indoctrination and a dangerous use of television." Reported in: *New York Times*, September 8.

### Athens, Greece

Searching for loopholes in the military dictatorship's stringent press laws is becoming a pastime for Greek journalists. Press regulations enacted in August allow publication of accurately-sourced, unbiased and undistorted statements. One recent ploy to circumvent the law was a verbatim printing of the daily *Congressional Record*, which included debate and anti-Greek-regime testimony of Greek exiles. Another law, while in draft form, proposed stiff penalties for Greek and foreign journalists who failed to follow "Hellenic-Christian tradition." The term was not defined and stirred sharp protests. Since disclosure of the proposed law, the regime has modified it to eliminate foreign journalists from its scope and to leave disciplinary measures in the hands of press unions. Reported in: *Los Angeles Times*, August 22.

### Venice, Italy

Fear of Roman Catholic ire prompted censorship of the movie *The Devils* at the Lido Cinema Palace. A screening was provided for the press and an invited audience, but public showing was cancelled to avoid

a possible encounter with the police. Based on Aldous Huxley's story of a 17th-century priest who resisted Richelieu's bigotry and was subsequently burned at the stake, the film dramatically portrays the Inquisition as a dark page in religious history. At a press conference, Oliver Reed, the picture's star, asked why historic events could not be shown on the screen. "Why this hypocrisy?" he demanded. His question went unanswered. Reported in: *New York Times*, August 29.

### Moscow, U.S.S.R.

Yassen Zassovrsky, dean of journalism at Moscow University, insisted during a news conference in New York City that Russians enjoy a free press while Americans must rely on newspapers supporting only the ruling class. He said that Soviet newspapers are restricted only in the publication of anti-Soviet material, war propaganda, and pornography. When asked if material such as the Pentagon Papers would be published in Russia, Zassovrsky replied that they "are not possible in my country . . . so they could not be published." The best he could say about American newspapers during his thirty-minute press conference was that they are sometimes "very interesting." Reported in: *New York Daily News*, August 28.

### Moscow, U.S.S.R.

Emilia R. Trakhtenberg, a Jewish librarian "somewhere in Central Asia," wrote an anonymous letter to Premier Kosygin complaining of discrimination in the USSR and praising Western freedoms. When she acknowledged authorship of the letter, she was convicted of slandering the Soviet state and sentenced to three years' confinement. Reported in: *Wall Street Journal*, September 30.

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