

newsletter
on
intellectual
freedom



IFC ALA

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Office for Intellectual Freedom, American Library Association

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**NO SOAPBOX FOR EVERY HUCKSTER:
THE SUPREME COURT TO COME?**

In the past, U.S. Supreme Court decisions have greatly influenced the direction taken nationally concerning intellectual freedom and the accessibility of published materials. Events of 1971 leave little doubt that the nation's highest court will continue to wield a good deal of force in the development of legislative trends and judicial procedures concerning the availability of information in the U.S.

The Pentagon Papers

In one of its most publicized 1971 decisions, that concerning publication of the *Pentagon Papers* (see September Newsletter, p. 102, for details), the Court held that any government attempt to block a news article prior to publication bears "a heavy burden of presumption against its constitutionality." Ruling that the government had not met that burden, the Court rejected the first effort to suppress publication of material held dangerous to national security, and decided squarely for freedom of the press.

While the *Pentagon Papers* decision surely represents a substantial victory for the press, it should be noted that three Justices dissented from the majority opinion — Justice Harlan, and President Nixon's two Court appointees, Justice Blackmun and Chief Justice Burger. It is interesting to speculate about what the decision might have been had the case arisen in the summer of 1972 rather than 1971. In 1972, there would be no dissenting vote from Justice Harlan, but neither would there be a Justice Black to concur with the majority and add, "The *New York Times*, the *Washington Post*, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly." That leaves a hypothetical vote of five-to-two in favor of publication.

Filling The Void: Powell and Rehnquist

The mystery of whether Lewis Powell and William Rehnquist would be confirmed as appointments to the Court to fill vacancies left by Justices Harlan and Black has been resolved. With Senate Judiciary Committee and American Bar Association recommendations, there was little doubt that either of the nominees would suffer the fate of Haynesworth or Carswell.

Assuming, then, that Powell and Rehnquist will influence decisions concerning public access to published materials, what might be expected from them?

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**1971, With
Hindsight**

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

In Our Mailbox...

Sanford Berman on South African Censorship

November 3, 1971

Dear Editors:

Frankly, I'm furious. I've read much and myself written a little on South African censorship, but not until this morning was I *personally* confronted with its concrete reality. To be specific: Some months ago I ordered for the Makerere Institute of Social Research Library a copy of *Some Implications of Inequality*, Spro-Cas Occasional publication no. 4, a 1971, booklet-sized collection of four papers published by the Study Project on Christianity in Apartheid Society (P.O. Box 31134, Johannesburg). This week it arrived, and only moments ago I opened the volume to begin cataloging. This is how the contents'-page looks:

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Distress in the Reserves:	13
e. a. barker	
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j.v.o. reid	
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h. l. watts	
African resettlement:-	58"
 e. desmond	

And, affixed to the top, a slender insertion-slip:

"PUBLISHERS' NOTE:

In view of the fact that a banning order has been served on the Rev. C. Desmond, the final paper in this publication has had to be taken out."

Page 57 I found neatly snipped below the last (12th) footnote of Watts' piece on "Poverty," and overleaf only Desmond's title,

~~"AFRICAN RESETTLEMENT,"~~

lined-out. After that, nothing. Merely three blank leaves.

"Father [Cosmas] Desmond," according to 'Notes on the papers' (p. 12), "is a Franciscan priest whose concern about the resettlement of Africans in South Africa resulted in the publication by the Christian Institute of his book, *The Discarded People*, in 1970." (Excerpts from that work, incidentally, appeared in the August 1971 *Sechaba*, p. 14-17.)

Well, like I said, I'm angry. But at least the opportunity to report this piece of otherwise-incredible totalitarian madness slightly relieves that anger.

Yours,

Signed: Sanford Berman
Librarian

P.S. Should I tonight find in my own back-copies of *Spotlight on South Africa*, an ANC-produced news digest, more data on Fr. Desmond's "banning", I'll forward them tomorrow.

November 4, 1971

Dear Editors:

As a postscript to yesterday's letter. . .

The London *Times* on 29th June 1971 carried the following report, later reprinted in *Spotlight on South Africa: News Digest*, v. 9, no. 24 (2 July 1971), p. 2:

The South African Government has placed Father Cosmas Desmond, a British-born Roman Catholic priest, under arrest at his home in Johannesburg. Father Desmond, author of *The Discarded People*, a study of conditions in African resettlement areas, was also concerned in making the British television film, *The Dumping Ground*, which dealt with African resettlement in the republic. Orders, signed by Petrus Pelsler, the Minister of Justice, and handed to Father Desmond today, confine him to his home from 6 p.m. to 7 a.m. on weekdays and all day on Saturdays and Sundays. He is banned from attending gatherings, confined to the Johannesburg district, and may not enter any African, Coloured or Asian area. . . A member of the Franciscan order, Father Desmond, aged 35, is a research worker for the Christian Institute. The house arrest order will deprive him of his livelihood, according to friends. He has been living on the proceeds of his book and on freelance journalism. As he is now banned, he may no longer be quoted in South Africa nor may his writings be published here. Father Desmond came to South Africa from Britain in 1959, and became a South African citizen in 1968.

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Hello, Library Trustees!

At the request of the ALTA Intellectual Freedom Committee, under the chairmanship of Mrs. Florence McMullin, this issue of the *Newsletter on Intellectual Freedom* is being sent to all members of the American Library Trustee Association.

In making the request, Mrs. McMullin (who is also a trustee of the Freedom to Read Foundation) said: "Library trustees must be aware of the climate in which intellectual freedom functions, for it relates directly to their responsibilities as trustees. There's no better way to do this than by reading the *Newsletter on Intellectual Freedom*. It helps trustees gird themselves and their libraries against censorship attacks by keeping them abreast of intellectual freedom issues across the nation, the problems attendant to these issues, and possible solutions. It also helps by encouraging trustees to develop strong materials selection policies and to approve complaint procedures. It's well worth the \$5.00 annual subscription rate."

We hope you enjoy this issue and look forward to welcoming you as a subscriber. JFK/JAH

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Viewpoint: The Pentagon v. The Press; Government Secrecy and Censorship

Alan Reitman

In Two Parts. Part I

[Mr. Reitman is Associate Director of the American Civil Liberties Union. The following address was delivered at various colleges pursuant to the Pentagon Papers crisis.]

The subject matter of our discussion today, "The Pentagon v. The Press," is not only an issue of current interest and concern because of the highly controversial events of last spring and summer. The title asserts straightforwardly what has always been the crucial problem of every democratic society: how can people and institutions preserve liberty, as symbolized in freedom of expression, in the face of the awesome power that government exercises?

This is not a new question. It has been asked ever since man climbed out of the caves to begin his struggle to win personal freedom over the long centuries of revolution, war and political turmoil. The question affects all economic, racial and occupational strata of society. It knows no geographical boundaries, involving every nation where free institutions have established and even those places where the spark of liberty flickers only weakly, or the idea of freedom waits to be born.

What may be different about this question is the intensive and persistent way it rises in our current period of history. At a time when disadvantaged groups vociferously express their complaints and clamor for inclusion into society, to enjoy material rewards and equality of treatment; or the more advantaged doggedly persist in their dissent against government policies that affect their lives, the massive authority of government is imposed frequently to check or limit expression and dissent.

The never-ending confrontation between the individual and government has taken on a new dimension in recent years because the target often includes not only those engaged in organized protest and dissent, but those usually regarded as non-participants in social conflict, those who objectively report and interpret the battle. I refer to the mass media of communication.

That the mass media must remain free of government control states an obvious maxim of our democratic system. You know from your elementary political science and government textbooks that the press plays a traditional role by acting as "the fourth branch of government." Newspapers, magazines, radio and television look after the public interest by watching over and reporting on the actions of elected representatives and appointed officials. This vital information function

oils the machinery of citizen involvement in a democracy, by encouraging political liberty — the vote — and active participation in the daily operations of government whose business, after all, is supposed to be the citizen's business.

The significance of today's threats to the mass media comes more sharply into focus if we remember what our founding fathers were seeking to accomplish. They sought to establish a type of government in which people participated in making decisions. This required an informed population, one that could take facts and form opinions in order to decide on important issues. And to insure that people were properly informed, they established freedom of speech and press in such a way that all ideas, no matter whose, could be made known to the public for consideration. In nearly two centuries the Supreme Court has rarely found cause to limit these freedoms. Thus, the First, Sixth, and Fourteenth amendments to our Constitution give the people an implied "right to know," a right to be fully informed as to the workings of government and their elected representatives and their appointees.

One might conclude from this summary statement of the importance of the press in maintaining an effective democracy that government should seek to abet the media's function by easing the gathering of information and its dissemination to the public. But all governments, no matter which Administration holds office, are led by human beings prone to human weaknesses. They strive to place their policies in the most favorable light, resent criticism, and are convinced that only they know best how to govern. To retain power they must engage in a constant game of coverup, of closing rather than opening the gates of information.

The track record of the Nixon Administration is different only to the extent to which it shamelessly exercises power over the mass media. The much-publicized *Pentagon Papers* case, which fortunately had a successful Supreme Court conclusion, is but the latest episode of a far-reaching campaign by the Nixon Administration to attack the journalistic function. In this incident we saw government brazenly seek to impose the mantle of prior restraint upon *The New York Times*, *The Washington Post*, and, inferentially, all other publications who "dared" to exercise their right to print information about a vital public issue — the internal debates and decisions reached on the conduct of the Vietnam war.

To understand why I term this governmental attempt as "brazen," we need to go back to the historical origin of the First Amendment which says that "Congress shall make no law abridging . . . freedom of the press or freedom of speech," words which the Administration either conveniently forgot or chose to ignore. They should have been sensitive to the wisdom of the founding fathers who added this Amendment to the Constitution because of the bitter colonial experience with the British licensing laws which left a healthy fear of any system of government regulation of political information. These laws stemmed from the 1500's when the Star Chamber of Henry VIII, fearful of Puritan agitation, promulgated comprehensive regulations licensing the printing of books. In 1637 the directive was dramatically expanded and became the model for Parliament's act for the licensing of all books. It was only after years of agitation by those who valued liberty that the acts lapsed in 1694. Although the press in England continued to chafe under such restraints as seditious libel laws, the end of licensing and adoption of the First Amendment in the U. S. Constitution signified the end of prior restraints on information of general and public interest.

In the face of this historical record and the clear thrust of Supreme Court decisions rejecting again and again the notion of prior restraint, the *Pentagon Papers* case can properly be characterized as a flagrant abuse

**" . . . the Administration flexes
its muscle in other ways . . . "**

of government power. The fact that Congress has failed to provide legislative authority for prior restraint on publications, heightens the Administration's abuse of constitutional standards. Their failure to respect the separation of powers between Congress and the President points up sharply the usurpation of power.

But, the Administration flexes its muscle in other ways to achieve the same result: non-publication of information and opinion that it considers harmful or does not want the public to have. I refer to a less overt but just as injurious form of control, self-censorship. This is the danger that flows from open criticism of the mass media's performance, such as that echoed repeatedly by Vice President Agnew over the past three years. While freedom of speech includes freedom for Presidents and Vice Presidents to express their views (and they use their freedom amply), they should remember that, because of the tremendous power of their office, their words convey special meaning, more so than the usual comment of a lower government official or a private citizen. Journalists, also being human, know how the heavy hand of government pressure can be applied if top government leaders don't like what they write or say. Special sources dry up, invitations to "off the record"

briefings suddenly cease, government officials previously available for little favors no longer return telephone calls.

The pressure is even more direct in the case of the vulnerable broadcasting industry where stations are dependent upon a government license, issued every three years, to continue reaping the harvest of lucrative profits from what is essentially a public grant. How do you think local broadcasters felt when, at the same time as the Vice President attacked the press as biased, the Administration-appointed chairman of the Federal Communications Commission called up top network officials to ask for transcripts of broadcasts that presented a critical response to President Nixon's speech on our Vietnam policies? Or, when Herbert Klein, the Administration's Coordinator of Communication, publicly said that unless the press does a better job, then the government might have to step in to take corrective steps? This combination of pressures was bound to impress on even the most courageous broadcaster — and most are not courageous — that he had better watch what his news reporters and analysts say lest he be the target of government wrath.

The inexorable pressure of self-censorship is evident also in the demand of government that reporters disclose the sources of information for their stories, or provide other information that they have secured in confidence. Such confidentiality is central to the reporter's pursuit of information. Forced disclosure by government subpoena or contempt action can serve, perhaps even unconsciously, to prevent the newsman from carrying out his assignment. While the final judicial opinion will come from the Supreme Court this term in a series of key cases challenging the effort to pry information from journalists, the inhibiting effect already has been noted in this statement of the U. S. Court of Appeals in San Francisco: "It is not unreasonable to expect journalists to temper their reporting so as to reduce the probability that they will be submitted to interrogation. The First Amendment guards against governmental action represented in this subpoena that induces self-censorship."

The open season on the mass media declared by the Executive Branch has been paralleled by the action of the Legislative Branch. The House of Representatives, despite its sensitivity to the political influence of the press, laid down a barrage against CBS because the network refused to submit to a House Committee the untelevised portions of its prize-winning TV documentary, *The Selling of the Pentagon*. Only the cool wisdom of House members who understand the clear constitutional threat to the press that lay behind the subpoena, and an intensive lobbying effort by CBS, prevented the citing of CBS president Frank Stanton for contempt of Congress, the first step in criminal prosecution. Coupled with the efforts of Senators to show that NBC had "unfairly" covered the Cambodian and Laotian campaigns,

we can plainly see the contours of a continuing campaign to crack down on the media, for exercising the press' constitutional right to expose governmental failures and wrong-doings. It is not too difficult, under these conditions, to see that these Congressional forays against CBS and NBC were warnings not to get too close to an issue about which the government has become highly sensitive — the role of the military in our society.

Yet the press must remain close to this issue (and others) that so pervasively affect the lives of citizens. In a democracy, the press is the counter-balance to the power of government authorities. The press acts as the people's overseer of the government and serves as the agent of the public's right to know. A broadcaster cannot edit with one eye on the film and the other over his shoulder, in fear the government will second guess his professional judgment.

All these examples of government pressure on the press are overt, visible attempts to control what the press reports. What is not as visible, but just as harmful to a democracy's essential need for open debate over government policies, is the almost medieval system of government secrecy and classification of information.

No episode more clearly demonstrates the evils of the present system than the classification of the *Pentagon Papers*. For the most part, these papers were classified "Top Secret." Yet, now that they are public knowledge, the *Papers* hardly seem worthy of that designation, especially under the existing secrecy definitions. Under an old, existing Executive Order, "Top Secret" is defined as covering documents whose unauthorized disclosure could result "in an exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the U.S. . . . a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense."

**"Not one Federal judge agreed
with the government's claim."**

Before the *Pentagon Papers* case reached the Supreme Court, nineteen federal judges had reviewed the papers behind closed doors. Yet, twelve of these judges were completely unpersuaded that publication of the papers offered any threat to the national security. The other seven merely felt that the government should have a further chance to show that national security was affected. *Not one federal judge agreed with the government's claim.* Even the Administration itself, despite its determined effort to impose prior restraint, shared these doubts. One day after the Department of Justice filed its appeal of the lower court order upholding *The New York Times'* right to publish, Secretary of Defense

Laird announced that he had ordered Pentagon censors "to move as rapidly as we can" in declassifying the *Papers*.

The judicial rejection of the classification of the *Pentagon Papers* was merely the tip of the iceberg. Solicitor-General Griswold, arguing for the Administration in that case, admitted that, under the present system, there is "massive overclassification" of other documents. The testimony recently given to a House Government Operations Subcommittee fully supports the Solicitor-General's concession. Ironically, the old Executive Order was supposed to reduce the amount of classification. But, the standards are so hopelessly vague that they have allowed the Executive Branch to place a shroud of secrecy over information. For example, the Department of Defense regulations for downgrading and declassifying documents show how impossible it is to achieve declassification within the present maze of groups, levels, and hierarchies responsible for classifying documents.

In the Defense Department alone more than 800 officials can mark a document "Top Secret." Almost 8,000 officials can label it "Secret." And any one of 30,000 employees can put the stamp of "Confidential" to government papers. And, remember that the Defense Department is only one of thirty-six agencies authorized to classify material. Is it any wonder that, as a result of this system, more than *twenty million* documents are now classified?

If there are those who still cling to the notion that national security requires such classification, please consult the testimony of William G. Florence, a retired Defense Department classification expert, who has stated that only one-half-of-one percent of presently classified documents should be classified. Ninety-nine and one-half percent could be released without harm to national security.

This review of the many different ways in which government controls over the media deprive the public of a free flow of information illustrates why the civil libertarian has little patience for such curbs. The case against government efforts to muzzle the press which, in turn, hampers the citizen's involvement in the affairs of his government, is a strong one.

But all these facts miss the deeper meaning and significance of government's incursion into the rights of the press. When the Gallup Poll shows that more than half the people in our country think the press was wrong in publishing the *Pentagon Papers*, it seems obvious that we need to understand better than we do why, despite its own imperfections, the right of the press to report the news and present opinion must be vigorously defended. But, even more important, the fresh demonstration of unbridled government power symbolized in the *Pentagon Papers* case brings under close examination the fundamental premises of our constitutional system, the

relationship between citizen and government and how much we value freedom and are willing to fight for it.

Secrecy and government power may seem a strange thing to worry over since our constitutional system contains the mechanisms for creating diversity of opinion and dissent from government policies. Certainly today's major controversies — Vietnam, race, and poverty — are drawing constant diversity and dissent into the marketplace of thought and political dialogue. There is ferment and criticism, all which seem to show that ours is indeed a free society. So why worry about secrecy? The answer lies in the difference between a free society and an open society. While people are freer today to debate the issues, unless that debate reflects a change of attitude on the part of government toward the citizen, a willingness to treat him frankly and honestly, we have not yet achieved the open dealings among men to which free debate should lead. The relationship between the citizen and government should not be one of mistrust, a fear of mutual sharing of information and

**“The clandestine activities
of the CIA . . . ”**

opinion, a lack of confidence that people have the capacity to understand and help determine the policies which direct the course of government, a rejection of the idea of self-government which is the base of our constitutional system.

Once this approach takes hold, once mistrust infects the government's perception of the citizen's role, then it is easy for government to slip over from using secrecy as a technique to adopting it as a *policy* in itself. Then the *policy* of secrecy fosters programs that only government leaders think best, secret policies which can lead the country into dangerous adventures that cause deep, internal division and violate our precepts of freedom. (The clandestine activities of the CIA are an excellent example of how secrecy can maneuver us into just this kind of distress.)

That secrecy is a threat to the open society and self-government is not an idea of recent vintage. It is a problem with which our society has wrestled since its founding. I state nothing startlingly new when I say that the public's right to be informed of the operations of government is the life-blood of self-government. James Madison, one of the architects of the First Amendment, said it very well: “A popular government, without popular information or the means of acquiring it, is but a prologue to a farce or tragedy, or perhaps both.” A government leader of our own day has defined the connection between knowledge of government and the people's capacity to judge and govern. Former Attorney General Ramsey Clark has written: “If government is to be truly of, by and for the people, the

people must know *in detail* the actions of the government. Nothing so diminishes democracy as secrecy. Self-government, the maximum participation of the citizenry in the affairs of state, is meaningful *only* with an informed public. How can we govern ourselves if we know not how to govern?”

These statements are not simply expressions of general philosophical theory. There is good American pragmatism behind the idea that knowledge is the key to the success of self-government. If people don't know fully and accurately what their government is doing, they cannot fully and accurately inform their elected representatives how they feel about the policies government adopts. (One can easily imagine how the outpouring of protest against the Vietnam war might have greatly increased if the public had read earlier the *Pentagon Papers*, and the consequence might have been a reduction in the killing.) People can not intelligently use the power of the ballot if, through the mass media, they are not fully and accurately informed about the nature of the social issues. They cannot participate meaningfully in the political campaign process unless they know the substance of issues, and how government regards them.

The tremendous growth, complexity and size of the problems society faces at a time of rapid change make the need for more informed judgment essential. How much do we really know about automation and its impact on unemployment? Do we really understand the intricacies of international nuclear policies which can spell the difference between war and peace? Does the average citizen, frightened by the shrill propaganda cries of “law and order,” really comprehend the responsibility of government for maintaining the rule of law by guaranteeing an individual his constitutional rights, even in times of social unrest?

When these questions begin to touch not only a single federal government agency, but many agencies; when they affect state and local governments; when foreign as well as domestic concerns are involved; when reactions and responses are so many and varied within government at all levels, we can begin to see the reason why the citizens, through the mass media, must have full access to information, to understand the nature of today's social conflicts, and to be exposed to proposed solutions. Unless there is knowledge and understanding, citizens may feel so overwhelmed (as too many already do) that they may reject the whole idea of citizen participation in government.

The social utility of greater public access to information has an even deeper purpose. Such access is essential for people to maintain *confidence* in government as responsive to the desires of the governed. If credibility gaps about government operations exist and are not filled by disclosure of complete and accurate information, citizens may lose faith in democratic institutions themselves. At a time when all institutions of gov-

ernment face the argument that they no longer serve the needs of people, information as to how they do operate is the first answer to this challenge.

If secrecy or other curbs on the journalist's function to report the news is the enemy of self-government, does it operate in ways that are not as widely known as overt attacks on the press? Yes. There is always the problem of encrusted bureaucracies that generally see release of information in terms of promoting government agency's self-interest, that shy away from disclosing data which doesn't proclaim the virtues of a particular program or policy. This attitude of spoon-feeding the public still serves as a cover-up for abuses of power, political favoritism, inefficiency or mistakes. It reflects a paternalistic view of government's relationship to the citizen. Indeed, there are such perceptive critics as Harry Ashmore, former editor of the *Arkansas Gazette*, who sees duplicity and "government by public relations" as even a greater danger than secrecy. They view manipulation of information by government leaders as a threat to the survival of the democratic process.

The argument I advance against government secrecy and control of the media must seem absolute to any neutral observer. The question could very well be asked: Isn't there another side? Don't other values or needs compete with the civil libertarian's concern? Candor requires me to point out these other arguments which form the case for secrecy in the conduct of government affairs (even if only to answer them!).

No government can carry out delicate international diplomacy if every diplomatic conversation is reported. (Even if we do, other governments don't necessarily abide by our strong belief in open debate.) No government can successfully pursue negotiations or contracts with private industry or other commercial arrangements in the earliest stages of such negotiations are known publicly. No government can expect the honest and open debate within its own policy councils that difficult questions require, if government employees know that everything they say is to be reported. No government can be said to respect the right of privacy if it makes known the details of a person's life, because it has such information in its vast files — such as the release a few years back of the psychiatric file of New Orleans DA Jim Garrison. No government can successfully prosecute for violation of laws if citizens, even journalist-citizens, shield grand juries and courts from vital information on grounds of confidentiality. And finally, no government can be expected to disclose information which truly jeopardizes national security. I emphasize this last point because it is under the protective umbrella of national security that so many denials of information take place. At first glance, the standard of national security seems a perfectly rational standard to apply in determining when to release government information. In a world that has tottered on the brink of atomic destruction since Hiroshima, and in which the nature of

warfare is radically altered, *information* itself is often a military and diplomatic weapon.

When the Cuban missile crisis was discovered and the White House announced that President Kennedy was ill with a cold and had to cancel a speaking trip, he really wanted privacy for a round of government consultations and sensitive communications with Krushchev. Was it wrong to lie, or was such "management" of information necessary to set in motion essential military steps and diplomatic negotiations that crucially affected the national security? This example illustrates that there may be certain times when the public's need for information must accommodate government's equal claim to conduct some of its business away from the spotlight of the marketplace. But for each example of information withdrawal genuinely affecting national security, more examples abound of unnecessary secrecy and manipulation of information to achieve certain foreign policy and military purposes where no real threat to national security exists.

Whether we point to the Dominican crisis a few years back when, to justify the intervention of U. S. Marines in that country, we "cited" a list of 52 Communists involved in the rebel army (which the press later exposed as false); whether we point to the military's refusal in the early days of the Vietnam War to provide press facilities or access to troops and its false reports of progress; whether we point to the monumental error of trying to hide from the public the past, not present, policy discussions inside our government over Vietnam; there is the assumption that the American people can't or shouldn't be told the full story.

"We pass wire tapping laws . . ."

Why is this so? It is a relic from another era of history when security consciousness brewed security hysteria. I refer to the Joe McCarthy era of the 1950's when freedom of speech and freedom of association were the victim of public anxiety over the rise of communist strength and power after World War II. We were so concerned about spies and espionage, whether or not they existed, that the public accepted the notion that the government was entitled to do almost anything to safeguard security. This philosophy still prevails, imbedded deep in our body politic.

We pass wiretapping laws that enable police to listen in on all private telephone discussions, whether or not the call involves a suspect. We place informers in private political associations to keep tabs on their wholly peaceful activities, and in some instances, to provoke them into criminal acts. We allow police to use flagrantly unconstitutional methods to curb demonstrators. We permit the Department of Justice to say

that the President is above the law, and can tap telephone conversations of private parties even without seeking the court order that the law requires. We breathe new life into a dying Subversive Activities Control Board by having them conduct hearings on the bona fides of political organizations.

All this in the magic name of national security! We have allowed that vague term, which, like its handmaiden "subversive" defies clear definition, to frighten us into accepting whatever government says as truth, without challenge or serious examination. The government said in the *Pentagon Papers* case that national security was at stake and large sections of the public automatically agreed. What a strange way for a democracy to function!

Of course, there are instances of real security danger if certain information is released. If the information describes present or future tactical military operations; or blueprints or designs of advanced military equipment; or secret codes — such clearly distinguishable vital military information should remain undisclosed. Such data is not vital to the citizen performing his role of critic of government's operations. But, if the government's vague and broad test of "information detrimental to the national security" is accepted, there is no limit to the government's power to enjoin the mass media and thereby reduce public discussion. To allow such wide discretion is to invite government suffocation of First Amendment rights. Even when the information reaches the point of military sensitivity, for example, the invasion of Laos and Cambodia, the First Amendment's bar to prior restraint necessitates its release. For it may be exactly at points of crisis, when the nation faces peril and government leaders assume wide powers, that searching public judgment of government's actions is most necessary.

The second, concluding part of this article will appear in the March issue.

"Library Services. Public Library service should be extended to all people on an equitable basis." — National Congress of Parents and Teachers, 1971-72 Legislative Program.

JOURNALIST PRIVILEGE

The Twentieth Century Fund announced publication of *Press Freedom Under Pressure*, which calls for enactment of a broad privilege designed to protect journalists from being compelled to reveal confidential sources. It agrees that neither the discomfort that often results from public disclosure of dismal realities nor the imperfections of the news media themselves are valid reasons for intimidation or restrictions. Reported in: *New York Times*, November 22.

Mailbox . . . (from page 2)

A subsequent news-item, quoted on p. 3 of the 9 July *Spotlight* from the 2d July *Rand Daily Mail*, disclosed that

The Minister of Justice, Mr. Pelsler, yesterday refused a request for a relaxation of Father Cosmas Desmond's house arrest order to allow the Franciscan priest to attend Sunday mass.

In sum, the fantastic absence of intellectual freedom south of the Limpopo, the all-pervasive, mind-stifling, state-executed censorship described in detail by authorities like Ezekiel Mphahlele (e.g., "Censorship in South Africa," *Censorship Today*, v. 2, no. 4, Aug.-Sept. 1969), is real enough. For visual proof, one need only have a look at the nearest mutilated copy of Spro-Cas occasional publication no. 4. And, of course, the widely-hailed *Discarded People* has now become, at least in the Republic, a *non-book*.

Yours,
Signed: Sanford Berman
Librarian
Makerere Institute of
Social Research
P.O. Box 16022
Kampala, Uganda

A Reader Complains

October 11, 1971

Dear Editors:

I have a copy of your September 1971 *Newsletter on Intellectual Freedom*.

In that *Newsletter* you make reference to a client of mine, Mr. J. Julian Bowman, as "leader of the 'vigilante committee.'"

I believe that the popular understanding of the word *vigilante* as well as the definition in some dictionaries carry with the word the connotation of the use of unlawful means. This connotation is inappropriate for application to Mr. Bowman or his associates. Mr. Bowman and his associates are doing nothing more than exercising the same First Amendment rights which your *Newsletter* purports to defend.

For some reason, the *vigilante committee* language is in quotation marks and the implication of your *Newsletter* is that the quotation is from the *Cincinnati Enquirer*. My client advises me that the word *vigilante* was not used in the *Cincinnati Enquirer*.

I hope that you will reconsider your editorial approach to problems like this and recognize that Mr. Bowman is also protected by the First Amendment and is free to express opinions with which you may dis-

agree without being accused of participating in unlawful activity. I believe that if you consider this seriously, you will agree with me that to label Mr. Bowman a "vigilante" is in conflict with the purpose of your *Newsletter* and could lead to litigation wherein you, your associates and your organization would be defendants.

At the very least, your readers and Mr. Bowman are entitled to an apology for your suggestion that he was engaging in unlawful activity in the exercise of his First Amendment rights. Your readers deserve the apology because such a suggestion is completely incompatible with the principle that you seek to defend. Mr. Bowman is entitled to an apology because you have libeled him a criminal.

Sincerely yours,

Robert E. Manley
Attorney-at-Law
Beirne, Wirthlin & Manley
3312 Carew Tower
Cincinnati, Ohio 45202

Response to Manley

October 22, 1971

Dear Mr. Manley:

Thank you for your letter of October 11, 1971, in which you allege your client has been libeled by being termed "leader of the vigilante committee" in the September 1971 *Newsletter on Intellectual Freedom*.

The only definition listed for this phrase in *Webster's Seventh New Collegiate Dictionary*, used as our authority, is:

"vigilance committee. . . A volunteer committee of citizens organized to suppress and punish crime summarily (as when the processes of law appear inadequate)."

According to the same source, "vigilante" refers to a member of a vigilance committee.

The phrase "vigilante committee" is in quotations as per rule #6:49 in the University of Chicago Press *Manual of Style* (12th edition):

"Often, however, an author wishes to single out a word or phrase, not quoting it from a specific document. . . but referring it to a general background that will be recognized by his reader."

We apologize for the misleading implication that the term appeared in the *Cincinnati Enquirer*. The quotes are our own and are used in the same way as we often enclose the word "obscene" in quotes.

Certainly Mr. Bowman is protected by the First Amendment and is free to express opinions with which we may disagree.

If any of our readers were led by the *Newsletter* to any false conclusions about Mr. Bowman or the nature of his group, we apologize for that.

So that our readers may correct any wrong conclusions drawn from our previous news item concerning Mr. Bowman, we will print your letter and our response in the January 1972 issue of the *Newsletter*. Unfortunately, the November issue has already gone to press.

Your letter has also been referred to the American Library Association's legal counsel.

Sincerely yours,
Judith F. Krug, Director
Office for Intellectual Freedom

Discriminating Against Madison Grant

November 1, 1971

Dear Editors:

I'm a satisfied user of *Classics of the Western World*, 1934 edition. Do you know anyone else who ever went through all the bibliography, Roman Numeral I, selections?

You're aware, no doubt, of the difficulty of getting anything into print which won't suit the Zionist hegemony in American academe and publishing, book-reviewing.

I enclose a letter (below) about a book by Madison Grant, whose dates were 1865-1937. It interests me to know what other examples of this ALA can cite. The Anti-Defamation League of B'nai B'rith was even more sure of itself in 1955 than they were in 1933. In the latter year, they proceeded against *Iron Curtain Over America*, by John Beaty, and sought to have (retired) General Stratemeyer withdraw an endorsement he'd made of that book. I have their overreaching letter and the tart response the General gave, as to no Rx, no prescription and no proscribing either, of what diet the American people might have in their reading.

It interested me to see if the D.C. Public Library had other titles by Grant: 1916, 1928 (two), and his bibliography prepared for the House of Representatives Committee on Immigration. Only the *Passing of the Great Race*, 1916, is in D.C.P.L. The Enoch Pratt Free Library here lacks *The Aliens in Our Midst*. Hopkins has the 1928 *The Founding Fathers on Immigration, Naturalization, and Aliens*, and the 1916 title. I've read both of these.

Have you any history of the Swedish publishing house, Bonniers, and their brief avatar in 1938 or so in New York City? They did a magnificent book by a Swede, under the pseudonym Magnes Hermansson. I have a copy of it but he himself lacks one!

Even Blackwell's in Oxford fails me on Grant and Henrik Caspari (real name of the Swedish author) titles.

I'm old fashioned enough to hold with the British essayist John Milton and John Stewart Mill, and to resent the grip on dissemination of books that I've tipped to in the past year. I had a letter on a case close to home, published in *Special Libraries*, January or February of this year.

Yours for intellectual freedom, indeed.

Sincerely,

Clayton D. Loughran, A.A.U.P., C.C.A.S.,
Wider Quaker Fellowship,
International House (Tokyo),
American Academy of Political &
Social Sciences, etc.

P.S. It isn't just book-selection time that gives the chance to angle a collection, make it *ex parte*, tendentious, intellectually dishonest. Another opportunity comes with the "weeding" process. Lawrence Dennis suffered that fate in D.C.P.L., after I'd ascertained a couple of decades ago that they possessed a book of his I intended to read. By the time I got around to wanting to borrow it, it was eliminated.

Anti-Defamation League
130 N. Wells St., Suite 1419
Chicago, Illinois
December 13, 1933

To the Publishers of Anglo-Jewish Periodicals

Gentlemen:

Scribner & Sons have just published a book by Madison Grant entitled *The Conquest of a Continent*. It is extremely antagonistic to Jewish interests. Emphasized throughout is the "Nordic superiority" theory, and the utter negation of any "melting pot" philosophy with regard to America.

Scribners, in a sales circular concerning the book, points to Herr Hitler as the man who has demonstrated the value of "racial purity" in Germany. The author insists that American development depends upon the elimination of unassimilable alien masses in our midst. This book is considered by some as even more destructive than Hitler's *Mein Kampf*. Mr. Grant also avers that "national problems are in the end racial problems."

We are interested in stifling the sale of this book. We believe that this can be best accomplished by refusing to be stampeded into giving it publicity. Every review or public criticism of a book of this character brings it to the attention of many who would otherwise know nothing of it. This results in added sales. The less discussion there is concerning it, the more sales resistance will be created.

We therefore appeal to you to refrain from comment on this book, which will undoubtedly be brought to

your attention sooner or later. It is our conviction that a general compliance with this request will sound the warning to other publishing houses against engaging in this type of venture.

Sincerely yours,
Richard E. Gutstadt,
Director

[*Newsletter* readers who can provide answers to Mr. Loughran's questions are invited to respond. JAH]

Response to Kristol

November 19, 1971

Dear Editors:

I very much dislike writing letters but I cannot let Mr. Kristol's two-part article on Pornography, Obscenity and the Case for Censorship (Sept.-Nov. 1971) go unanswered. Sincere he is, but I believe the entire argument is completely demolished by the following considerations:

1. Pornography is relative to specific individuals under specific conditions. The pornographic can be no more absolutely defined than the "funny" or the "beautiful" etc.

2. Even if pornography could be absolutely defined, I assert that Mr. Kristol's statement, "If you care for the quality of life in our American democracy then you have to be for censorship," is patently false. It is because I "care for the quality of life. . ." that I am opposed to all and any censorship. And "quality of life" is a term which, like "pornography", is relative to specified individuals under specified conditions. I know educated, intelligent sensitive people who find what, to them, is pornographic also adds to the quality of life, i.e., they find it of positive value.

3. Censorship defeats its own purpose by making the forbidden more desirable and the "debased" does not drive out the "good".

People buy pornography because they want it and writers who write primarily to make money will attempt to satisfy this want, but there are plenty of writers who write for other reasons and plenty of literature is available for those who don't want pornography — more, in fact, than anyone could read in a lifetime.

I recommend to Mr. Kristol, and to all censors, the article in C.C.S.S.Q. (*Community College Social Science Quarterly*), Summer 1971 issue, by Eugene Wine, entitled "The Harm 'Good' Men Do and Why."

The whole edifice of Mr. Kristol's thought topples because it is based on false assumptions.

Sincerely yours,
Mason T. Parker, Librarian
Mount Wachusett Community College
Gardner, Mass. 01440

1971, With Hindsight . . . (from page 1)

Both Justices are well-educated and successful lawyers who seem intellectually equipped to compete on what President Nixon characterized as "the fastest track in the nation." Mr. Powell, a Richmond, Va. lawyer, is a former president of the American Bar Association. At 64, he is considered a "moderate" on racial questions and has expressed strong "law-and-order" views on government wire-tapping, radicals and alleged subversives. Mr. Rehnquist, a former Phoenix lawyer, is an Assistant Attorney General, responsible for drafting the Nixon Administration's legal positions. Reportedly, he espouses a Goldwater-style conservatism and is critical of the liberal criminal law decisions of the Warren Court. Recently, John Birch Society associations have been ascribed to him during the late 1950's.

President Nixon described his nominees as "conservatives" in their "judicial philosophies." He hastened to add that "by judicial philosophy I do not mean agreeing with the President on every issue." A Justice, he continued, "should not twist or bend the Constitution in order to perpetuate his political and social views." Yet, in defining his terms, the President said, "As a judicial conservative I believe that some Court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society. The peace forces must not be denied the legal tools they need to protect the innocent from criminal elements."

As some critics have pointed out, the President's definition of "judicial philosophy" is hardly traditional. A Justice espousing a "conservative judicial philosophy," as it is generally defined, respects precedent and avoids deciding cases on a constitutional grounds whenever a narrow ground for decision is available. A Justice espousing a conservative judicial philosophy would not employ the courts to advance his own political or social ideals. Obviously, his "judicial philosophy" would never include reference to giving the peace forces "tools" to "protect the innocent from criminal elements," because this statement relates directly to social or political philosophy. Thus, the President's law-and-order attitude is not a "judicial philosophy," but is just the sort of "personal political and social view" that Mr. Nixon emphasized should *not* be effectuated by a Supreme Court Justice.

Because neither of Nixon's nominees has ever served in the judiciary before or has written much about judicial issues, very little information is available from which to speculate about their judicial philosophies. The President has assured us that both men are "judicial conservatives," as he defines the phrase. Mr. Rehnquist, however, made a speech last year suggesting that the Court should overrule some decisions, such as *Miranda* (concerning illegally obtained confessions), without feeling bound by former decisions. This position is certainly not characteristic of the traditional judicial conservative. It is also believed that Mr. Rehnquist

favors wiretapping, increased police power to investigate and far greater protection for the victims of crime.

Slightly more is known about Mr. Powell's beliefs concerning such issues as academic freedom and dissent since these were the topics of an address he delivered in 1968 at the annual meeting of the American Association of State Colleges and Universities. At that time, he said, "One may doubt that a Black Panther leader, a convicted felon, is qualified to bring anything worthwhile to the campus. If it is said that he knows much about racial hatred, it can also be said that a Mafia leader knows much about vice and extortion, and that the Grand Dragon of the Klan knows much about bigotry. Should the faculties of our great universities, dedicated to ideals of high scholarship and the search for truth, be demeaned by conspiring extremists who would defile and destroy the very freedoms they invoke? Are our campuses to become Hyde Parks and Times Squares, where a soapbox is provided for every huckster? Again, it seems to me that the time has come for responsible educators to be far more discriminating in selecting professors and lecturers, and especially in granting tenure."

A Supreme Court led by Chief Justice Burger, and three deep with Nixon appointees — Blackmun, Powell, and Rehnquist — all harboring Mr. Nixon's "conservative judicial philosophy" will surely be an unpredictable Court. However, if its definition of speech unprotected by the First Amendment parallels that of Mr. Nixon, it seems safe to assume that "free" speech will be viewed within much narrower limits than those to which publishers grew accustomed during the past decade.

Our Federalism

One early indication of the Court's future stance on cases involving so-called obscene materials emerged in February when it voided actions taken by lower-level federal courts in eight cases questioning the constitutionality of state laws and local ordinances. As a result of these actions (viewed as a form of federalism or states' rights) except in unusual cases where immediate and irreparable injury will result, federal judges may no longer interfere with criminal proceedings in state courts. Justice Black said that even "irreparable injury" would not warrant intervention unless it were both "great and immediate." The Court rejected the argument that people should not have to undergo expensive and burdensome criminal trials if a federal judge can see quickly that the criminal law is unconstitutional.

"Inside" Opinions

In late 1970 and early 1971, Justices Black and Douglas both found occasion to question the direction of the Burger Court. Their comments illustrate concern about the effects of the Nixon-brand of "conservative judicial philosophy" as it relates to the First Amendment. Referring to the Court's review of a case involving

I Am Curious (Yellow), Justice Black said the Court has always observed a distinction between expression and conduct. He predicted that the distinction will be wiped out if the Court adopts the line suggested by Chief Justice Burger that the depiction of the conduct is equivalent to conduct.

Commenting on a case involving seizure of allegedly obscene photographs by U. S. Customs officials, Justice Douglas said, "I do not understand why the Court feels so free to abandon previous precedents protecting the cherished freedoms of press and speech. I cannot, of course, believe it is bowing to popular passions and what it perceives to be the temper of the times." Outsiders cannot be so confident as Justice Douglas.

The Battle Of The Books: 1971

What published work initiated the greatest number of complaints in schools and libraries during 1971? It was not the *Anarchist Cookbook*, called the most irresponsible piece of publishing in its history by *Saturday Review*. Nor was it *Steal This Book*, a late entry, sure to garner as many objections as Abbie Hoffman's previous efforts, *Woodstock Nation* and *Revolution For the Hell of It*. It was not even *The Senuous Woman*, 1971's most popular sex compendium, although it ran a close second.

During 1971, the *Newsletter* reported about seventy-five incidents involving complaints to schools and libraries concerning specific books. Using these reports as a base, the most complained about book in 1971 was — believe it or not — *Catcher in the Rye*, by J. D. Salinger. The book caused at least six incidents, outranking *The Senuous Woman* by two.

In an incident-by-incident breakdown, twelve books accounted for more than one third of the reported complaints in 1971. The remaining objections arose over forty-two other titles. The twelve most frequent "offenders" were: *Catcher in the Rye* (6); *The Senuous Woman* (4); *Down These Mean Streets* (4); *Do It!* (3); *Daybreak* (2); *The Learning Tree* (2); *Catch 22* (2); *Manchild in the Promised Land* (2); *Nigger* (2); *Inner City Mother Goose* (2); *Black Like Me* (2); and *The Godfather* (2).

An over-all look at the list of complaints produces one very marked trend. Twenty-five of the books, one-third of the titles, were by or about blacks. Most were explicit descriptions of ghetto life and what it's like to live as a member of an oppressed minority in the U. S. For the most part, objections to the twenty-five titles referred only obliquely to the subject matter and disclaimed any "racism" in the complaints. Rather, the complaints were based on "objectionable" or "obscene" language.

Three incidents reported in 1971 resulted in lawsuits — two to remove books from school libraries, and one to challenge the removal of a book. In Rochester, Michigan, a school board member sued for removal of

Kurt Vonnegut's *Slaughterhouse Five* from the school curriculum claiming the book is anti-religious. (See November, 1971 *Newsletter* for details.) In Chicago, a high school teacher sued for removal of six books from the school library because they are derogatory to Italo-Americans by implying that relations between the Mafia and Italo-Americans are fact rather than allegations. In Flushing, N.Y., parents and school personnel sued to overturn a community school board's removal of *Down These Mean Streets* from classroom use. (See July 1971 *Newsletter* for details.)

Dramatic Affairs

Live theatrical performances presented a special trauma for censors in 1971. Predicting what the casts of rock musicals such as *Hair* and *Stomp* will do during any one performance is almost impossible. Particularly with *Hair*, second guessing is futile because the infamous nude scene is a matter of personal choice for cast members during every performance.

The *Hair* generation, like the flower children of the Haight-Ashbury, has all but disappeared. Yet, the musical lives on — and so do its opponents. In Providence, St. Louis, Kansas City, Atlanta, Little Rock, Indianapolis, Cincinnati, West Palm Beach, Orlando, and Tallahassee, various efforts were expended to prevent or waylay performances of *Hair*. Some cities, such as St. Louis, Kansas City, and Indianapolis, passed new or revised obscenity ordinances specifically to bar the play. Failing in that, city officials attempted to prohibit the production companies from using civic auditoriums for performances. In St. Louis, Atlanta, and Little Rock, this ploy was challenged in court, with *Hair* declared the winner. Only in West Palm Beach, Fla., did a judge find the city's fear of "financial loss" for future programs to be justification for freezing out the play. In Providence, the question is unresolved at this writing.

Purportedly, the furor over *Hair* results from one brief nude scene performed in a near blackened setting. Undoubtedly, the real motivation for protest stems from anger over the play's blatant put-down of middle class, over-thirty American values, hypocrisy and life styles. Ironically, the people whom the original *Hair* glorified have been — for the most part — assimilated into the very "mainstream" which the play satirized. (In late 1970, Lynn Kellogg, a member of the Broadway cast, could be seen singing a paean to menthol cigarettes on a television commercial, before such commercials fell to the censors' ax.) It's probably a safe guess that the audience which remains for the play remains because of the controversy and the music, rather than the message. Those objectors who warn the public to beware of thinking that *Hair's* music indicates a play like *South Pacific* and *Oklahoma*, are misguided. About the only thing in *Hair* that remains valid is its music. Its message and its intended audience are passé. If 1971 is an indicator, controversy alone, however, will continue to give the

play financial success — the one thing most repugnant to its original audience.

Stomp and *Oh! Calcutta!*, two other plays subjected to the censor's wrath in 1971, most likely suffered because of guilt by association. Like *Hair*, they contained nude scenes, and — in the case of *Oh! Calcutta!* — very little else. Still, *Stomp* was forced to close or eliminate its nude scene in Atlanta. *Oh! Calcutta!*, after disappointing its producers by an unsuccessful "national" closed circuit or videotaped television showing, was the subject of federal prosecution, resulting in a \$4,000 fine for its producers.

Two other theatrical productions also met criticism because of nudity — *Marat/Sade* in New Orleans and *Lysistrata* in Fairbanks, Alaska. Artists involved in *Marat/Sade* went to jail rather than alter the play. The Fairbanks troop chose to delete the nude scene and went on as scheduled.

Tube Blackouts

Censorship of television programs in years gone by was easily recognized by the occurrence of a "blip," or the appearance of moving lips emitting no sounds. On the surface, television censorship in 1971 seems much less subtle. Instead of occasional words, segments or entire scheduled programs were cancelled this year. This trend may result from more daring programming, initially, or it may be the industry's response to heavy governmental criticism, including the threat of subpoena of "out-takes."

As with book materials, the range of television subject matter censored in 1971 was broad. Surprisingly, public broadcasting scored a higher "censorship trendex" rating than commercial television. This conclusion is based on the number of incidents reported in the press and is obviously a superficial summary of the situation. Public broadcasting's censorship incidents at least were reported; viewers may never know about commercial television's scissorings.

Most instances of public broadcasting censorship involved National Educational Television (NET) productions, particularly segments of the award winning *Great American Dream Machine*. For example, Chicago's Channel 11 excised "Too Forgive, Divine," because of explicit heterosexuality; "The Blue Max," because of explicit homosexuality; and an interview with Black Panther Bobby Seale, because it was apparently just explicit. In Little Rock, Arkansas, the public broadcasting outlet cancelled a scheduled rock music program because it was feared to be "objectionable." The Aspen, Colorado outlet cancelled the Jules Feiffer segment of NET'S *Artists in America* series because of "profanity." The Philadelphia channel refused to air an interview with well-known atheist, Madalyn Murray O'Hair because she made unsubstantiated statements concerning church finances. Several public broadcasting stations rejected a program called *The Passover* because

of protests from Jewish organizations. The program was produced by a group whose purpose is to convert Jews to Christianity. In Richmond, California, the school barred the local educational station from classroom use because of "unbalanced news coverage." As a capstone for the year, the Public Broadcasting System itself banned a NET production on the FBI because of "undocumented" allegations made in the film. After the PBS decision was publicized, the censored program was aired along with a panel discussion on why it was prohibited in the first place.

Censorship of commercial programs also covered a wide range of subjects. Some CBS locals refused to carry a segment of the controversial series *All in the Family* dealing with homosexuality. ABC refused to broadcast the halftime show in the University of Buffalo/Holy Cross football game because it protested social ills. A Washington, D.C. station bleeped two sentences from a speech on sexism in television delivered by Nicholas Johnson, the "dissident" member of the Federal Communications Commission (FCC). The FCC itself became involved in a number of disputes concerning refusals by networks and local stations to sell advertising time to groups advocating a variety of causes. Author Mark Lane lodged an appeal with the Commission to end censorship of guests' comments on television talk shows. William F. Buckley, Jr. went to court to challenge the requirement that performers with regular programs such as his *Firing Line* become union members. Buckley claimed that requiring union membership for use of the airwaves violates free speech.

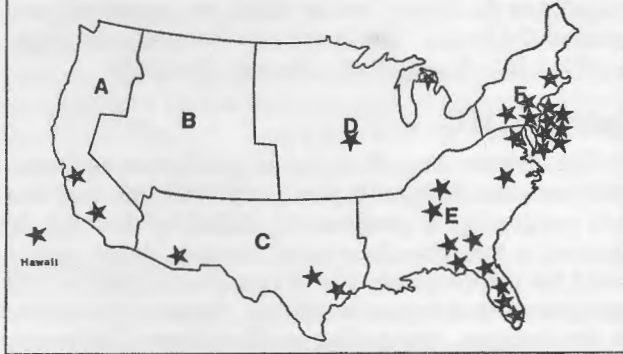
The most publicized incident involving activities viewed by many as repressive resulted from the CBS documentary, *The Selling of the Pentagon*. The program prompted a public blast from Vice President Agnew and a subpoena from the House Commerce Committee to gain access to the network's unused film footage for the documentary. CBS President Frank Stanton refused to produce the out-takes or answer the subpoena. The Committee pushed to have Congress cite the network for contempt but was unsuccessful.

Another controversy erupted in November when it was reported that the FBI conducted an investigation of radio-television newsman Daniel Schorr. The investigation was described by the Bureau as "routine" because Schorr was supposedly under consideration for a high federal job in the "environmental area." Investigators were able to check Schorr's neighbors, working associates, former employers and present executives of CBS News where Schorr's beat includes federal agencies and programs that have been questioned and criticized. Schorr claims he knows nothing about being considered for a federal job. Many consider the FBI actions to be a none-too-subtle effort to intimidate Schorr or his employers.

All told, the nation's "vast wasteland" provided a fertile playground for censors and their friends in 1971

JAH

Censorship Dateline



PACIFIC COAST STATES (A)

San Rafael, Cal.

Robert L. Grime, parent of a San Rafael High School senior, made a formal complaint to the school board about the use of *The Movement Toward a New America* in a government class taught by Mrs. Virginia Franklin. Grime, whose daughter is not one of Mrs. Franklin's students, said one article in the book deals with "understanding orgasm." He asked, "Why do you have to understand orgasm to understand American government?" The book also contains articles by Abbie Hoffman and Huey Newton. Mrs. Franklin said she uses it to teach students to evaluate propoganda from the New Left. "However," she said, "if the book irritates people I will withdraw it." Reported in: *San Francisco Chronicle*, October 14.

Ventura, Cal.

Inmates of Ventura County Jail complained to the *Star-Free Press* of "being denied free access to your publication and any other such public publications dealing with current local news events." Chief Jailer John Chamberlain defended his "no newspaper policy," saying newspapers are "a fire hazard. . . . It has nothing to do with censorship. Newspapers are just too easy to utilize." He said inmates can read magazines in the prison library, but even that is restricted because "they use them to clog toilets and raise all kinds of hell." Reported in: *Ventura Star-Free Press*, October 12.

Lihue, Hawaii

Radio station KUAH charges that the State Public Utilities Commission refused to permit live broadcast of a hearing concerning a barge service's petition to curtail service. Station manager John S. Short said, "We wanted to broadcast this hearing as a public service to the people who could not attend." Commission Chairman Lawrence Dolim said he feels the Commission is

like a "court of law" and if its hearings were broadcast, people would tend to "make political speeches." Short said the public's constitutional "right to know" was violated by Dolim's action. Reported in: *Honolulu Star-Bulletin*, October 3.

SOUTHWESTERN STATES (C)

Tucson, Ariz.

In a letter, University of Arizona President John P. Schaefer informed *Arizona Daily Wildcat* editor Toby Burgess that she was making herself "vulnerable to prosecution" by running ads for an abortion referral service. The paper has carried ads from a Phoenix problem-pregnancy counseling service since September. Another ad from an abortion center in New York and an ad for contraceptives appeared during the past year. President Schaefer cited an Arizona statute prohibiting the writing, composition or publication of any such ads. Miss Burgess said, "It seems to me the law is constitutionally questionable. Personally, I think it is an outdated law, and not useful anymore. It was not enforced last year when we ran the ad, and there are other publications on campus in violation of the law." She plans to confer with attorneys to decide what action to take and said, "I think it is a pretty serious restriction. If it is all-inclusive, this restricts freedom of the press by prohibiting news stories and editorials." Reported in: *Tucson Citizen*, October 12.

Houston, Tex.

A few months ago, Dr. George Garver was dismissed from his position as Houston School Superintendent. Liberals recently elected to the school board vow they will reinstate him. In the meantime, a postman's violation of the Post Office's code of ethics has injected Dr. Garver's reading habits into the dispute. Mailman Leslie Maclean broke the code when he told his wife that Dr. Garver receives *Playboy* magazine. Mrs. Maclean wrote a letter to the *Houston Chronicle* complaining about it. Maclean was temporarily suspended pending an investigation. In a new letter to the editor, Maclean said Garver "has accepted lewd, obscene filth, in the form of *Playboy* magazine, into his home month after month. His children, I assume, live in his house. The community should vomit up this moral question mark." Maclean also called for the resignation of the Houston postmaster because he does not "lead in the battle against the printed filth delivered by his own men." Dr. Garver said, "The issue is not what I read, but the right of privacy, the right in a democracy to decide what is appropriate for one's self." Reported in: *Washington Post*, November 25.

San Marcos, Tex.

The *San Marcos Record* refused to print the word "virgin" as it was to appear in an ad in the *University*

Star. It was apparently decided that the phrase "Virgin Sale" was inappropriate reading for university students. Consequently, the *Record* substituted "Initial Sale." As student Ira Kennedy suggests, ". . . now go to your dictionary and turn to the V's. Change Virgin Islands to Initial Islands, virginity to initiality, virginium to initial-um, Virgin Mary to Initial Mary, Virgin Queen to Initial Queen, virgin's bower to initial bower, and virgin wool to initial wool. After you've completed all of the changes, send a get-well card to the *San Marcos Record*." Reported in: *Weather Report*, October 5.

MIDWESTERN STATES (D)

Des Moines, Ia.

The State Executive Council refused to approve purchase of the *Berkeley Barb* for the Iowa State Traveling Library. A tape cassette recording of *Hair* also was objected to. (See article on p. 19 for details.) Reported in: *Des Moines Tribune*, October 19; November 9.

Cheboygan, Mich.

Louie Church, a history teacher at Cheboygan Area High School, was fired when he failed to stand up at a teachers' meeting for the pledge of allegiance to the flag and the singing of the national anthem. Superintendent Arthur Towe noted Church's action, suspended him, and recommended his dismissal. The board of education unanimously approved Towe's action. According to Towe, Church's "failure to stand . . . shows some disrespect to the flag which could affect his teaching effectiveness. It could also have a disruptive effect on the morale of the staff, the student body, and on relations between the school and community." Church's attorney presented arguments for reinstatement at a public hearing in October, but the board made no decision. Stating that he is prepared to appeal his case "all the way," Church said, "I never thought all this would ever happen when I didn't stand up. I'm beginning to run out of money, but I'll find some way of sticking around till this is finished." Reported in: *Detroit Daily News*, October 24.

SOUTHERN STATES (E)

Montgomery, Ala.

Library Director Mary Haas told the *Journal* that the Public Library had sold a "hidden" collection of pornographic books. "They were really not library material," she said. The books were part of an "under-the-counter collection" which also contained scholarly works on sex, marriage manuals, birth control manuals and biology books. Several of the discarded books were by Henry Miller. Mrs. Haas described these as "beyond repair." She said she wouldn't discard these except for the condition, but would not add Miller's works to the

collection because "as far as I know there is no demand for them." Mrs. Haas said she discovered the collection several weeks after becoming library director. She took a sample to the library board which was previously unaware of the books. The board told her to discard them. Reported in: *Montgomery Journal*, November 1.

Washington, D.C.

The Private Arts Foundation, promoters of avant-garde activities in Washington since 1965, decided that nude portions of a program scheduled by the Halprin Dancers, a San Francisco-based modern dance group, would be inappropriate for Washington audiences. A Foundation spokesman would not discuss the reasons for the decision, but a George Washington University official said they had to do with the design of the University's Marvin Theater stage. She said, "They understood this group did a lot of improvising. The front of the stage is very close to the audience and the dance department of the Foundation thought the nudity might be offensive to the spectators." The group's director Ann Halprin said, "The difference in the performance is the same as if you took all the red out of Picasso's paintings. It's subtracting a dimension, but a work of art still remains." Reported in: *Washington Daily News*, November 3.

Washington, D.C.

Tom Forcade, Washington correspondent for the Underground Press Syndicate, was denied a White House press pass for "security reasons." John W. Warner, Jr., Secret Service public relations director, justified the denial by citing "certain information" that a security check produced about Forcade. He said, "It was thought best to deny him admission to the White House. It was simply a case of what is best in the interest of our protective mission." Forcade viewed the denial differently, saying that White House press officials were afraid he would ask embarrassing questions that the "straight" reporters would soft-pedal. Reported in: *New York Times*, November 14.

Washington, D.C.

The Federal Communications Commission (FCC) ruled that major television networks need not broadcast

"The lock on the door of the legislature, the Parliament, or the assembly hall, by order of the King, the Commissar, or the Fuhrer — has historically been followed or preceded by a lock on the door of the printers, the publishers or the booksellers."

— John F. Kennedy

an hour-long program opposing Communist China's admission to the United Nations. The film, narrated by William F. Buckley, Jr., is sponsored by the Committee of One Million Against the Admission of Communist China to the U.N. The FCC ruled that the committee made no claim that the networks had not presented contrasting views on the issue as required under the fairness doctrine. The lone dissent was filed by Nicholas Johnson who contends that the FCC may not arbitrarily deny access to broadcasting facilities to private groups. Reported in: *Washington Star*, October 23.

Daytona Beach, Fla.

In response to a *Daytona Beach News-Journal* editorial which he believed was unfair to him, incumbent Mayor Richard Kane demanded column space for a reply of his own. Editor Herbert M. Davidson refused, prompting Kane to invoke a Florida statute making it a misdemeanor for newspapers to refuse to publish a response to an attack. "We will not be intimidated," said Davidson. "We have the right not to publish irrelevant, ill-tempered and vituperative material offered by candidates who wish to use the *News-Journal* as a whipping boy . . . to further their candidacies." Davidson was subsequently arrested and a hearing date set. Reported in: *Tampa Times*, October 2; *Washington Post*, October 15.

Gainesville, Fla.

Ronald Sachs, editor of the University of Florida's student newspaper, *Florida Alligator*, was arrested after the paper published a list of abortion referral services. He was charged under a 103-year-old Florida law providing one-year in prison and a \$1000 fine for publishing abortion information. Reported in: *New York Times*, October 7.

Miami, Fla.

After a secret screening for two special assistant state's attorneys and a criminal court judge, Melvin Van Peebles' *Sweet Sweetback's Baadasssss Song* will not be shown in theaters in the South Florida area. Officials of the Florida State Theatre chain asked special assistant state attorney Leonard Rivkind, in charge of the Task Force on Obscenity, to view the film and give an opinion concerning its possible obscenity. Rivkind said, "We determined the film to be obscene at least as far as probable cause is concerned. We advised the theater owners that if the film was brought into Dade County, we would file some form of legal proceedings, either criminal or civil to stop the film." Reported in: *Miami Herald*, October 20.

Polk County, Fla.

Some members of the Polk County Council of PTA complained about books being used in the county school system. Publications criticized included *To Sir*

With Love and *Scholastic Scope* (because of articles by Dick Gregory and the late Malcolm X). Also criticized was a paperback "book fair" in which one student ordered *All You Should Know About Drugs* which "implied pot wasn't so bad and listed other ways such as the use of [psychedelic lights] to 'turn on.'" In recent years, Polk County Schools cancelled subscriptions to *Holiday* and *Harper's* magazines because of objectionable articles. Reported in: *Lakeland Ledger*, October 24.

Tallahassee, Fla.

Florida State University administrators refused to pay costs for Bobby Seale, Abbie Hoffman and other controversial speakers invited to address a communications course on "extremist rhetoric." The decision not to provide the necessary \$5,000-\$6,000 was made by College of Arts and Sciences Dean Robert Lawton. Said Mel Kiser, the student responsible for inviting three left-wing and three right-wing speakers, "They were afraid of controversy and they anticipated trouble at the Board of Regents and legislative level which is giving the Board of Regents dictatorial powers over the university." Reported in: *Tallahassee Democrat*, September 27.

Atlanta, Ga.

Lieut. Colonel Anthony B. Herbert, a combat hero who charged two superior officers with concealing Vietnam war crimes, was told by the U. S. Army to refrain from speaking with news media reporters without specific permission from his commanding officers. Scheduled to appear on the Dick Cavett television show, Herbert was not granted leave until five minutes before the taping at a local station eleven miles away from Ft. McPherson, Georgia. Although he has 63 days accumulated leave time, the Army has denied Col. Herbert three formal requests for leave within a week. His attorney suggested that the Army was "harassing" his client. Reported in: *New York Times*, November 5.

West Liberty, Ky.

Following complaints from local citizens, the West Liberty Drive-In Theater cancelled porno king Russ Meyer's *Beyond the Valley of the Dolls*. The citizen's group, led by members of the Morgan County Ministerial Association, was prepared to take legal action, if necessary, to prevent further showing of the film. Reported in: *Campton Wolfe Co. News*, October 8.

Durham, N.C.

Suit was filed in U. S. District Court in Greensboro on behalf of four Durham High School students to challenge the constitutionality of a school rule requiring permission from school principals before written materials may be distributed on school property. The four are part of a group which publishes an unofficial student newspaper, *Uprising*. Last April, they were refused

permission to distribute *Uprising* at Durham High. Appeals to the Superintendent of Schools and to the School Board were unsuccessful. In September, the students attempted to circulate a petition calling for freedom of speech and press, but the Durham High principal confiscated the petition, saying it was circulated without his permission. When the students asked his permission, he refused. Reported in: *North Carolina Anvil*, October 9.

Nashville, Tenn.

Officials of the Southern Baptist Conference suppressed 158,000 copies of its publication *Becoming*, edited by Rev. Frank Grayum, because of a picture showing a young black man talking to two white girls. The magazine was suppressed at the suggestion of Rev. Allen B. Comish, director of the Southern Baptist Sunday School Board's division of church services and materials. Mr. Comish said the offending picture and its accompanying article, entitled "A Ministry of Reconciliation, "were subject to misinterpretation." The Virginia branch of the conference condemned the suppression during its convention in Arlington. Rev. W. Perry Cronch, chief executive of the North Carolina Baptist Convention, went before a meeting of black Baptists and apologized for the action, saying, "I hope the time will come when neither fear nor expediency will dictate such actions." Reported in: *Washington Post*, November 11.

NORTH ATLANTIC STATES (F)

Boston, Mass.

The *Boston Herald Traveler* announced it will join the growing list of newspapers which refuse to carry advertisements for X-rated movies. Reported in: *Washington Star*, October 20.

Worcester, Mass.

A group called Citizens Upholding Responsible Education (CURE) requested, the School Committee to review reading lists, curriculum guides, sex education materials and other instructional materials to screen "filthy and obscene" items. Works found by the group to be objectionable include *Catcher in the Rye*, *Catch 22*, *Down These Mean Streets*, *Manchild in the Promised Land*, *Brave New World*, *Black Voices*, *Black Like Me*, and *Lord of the Flies*. Reported in: *Worcester Telegram*, September 17.

New York, N.Y.

Donald Margolies, a John Dewey High School senior, is appealing a decision which resulted in the impounding of *Streams of Conscience*, a student-produced literary magazine. Co-editor Margolies wrote a four-page

story entitled "Short Story," in the style of J. D. Salinger, which principal Sol Levine believed to be obscene. Levine barred distribution of the magazine. An appeal was filed with Jacob B. Zack, assistant supervisor in the Board of Education's Office of High Schools. Reported in: *New York Times*, November 14.

Philadelphia, Pa.

About fifty policemen's wives picketed the *Philadelphia Inquirer* and blocked distribution of the November 19 edition because of a series alleging widespread corruption in the police department. One picketer said, "We're not saying there's no corruption on the police force. Our gripe is with the way the paper printed it. They made it look like 7,600 policemen in the city are corrupt." *Inquirer* executive editor John McMullen said the paper would not be deterred from continuing its series. Reported in: *Philadelphia Bulletin*, November 19.

Shippensburg, Pa.

The school board upheld a decision by Shippensburg Area School principal George Bressler prohibiting pictures of thirty senior boys from appearing in the school yearbook. Bressler contended that the boys' hair and sideburns were longer than allowed by the school dress code. The picture-taking was scheduled by the school for August, when school was not in session. As one parent commented, "Now they say that the school dress code applies during the summer months." Reported in: *St. Louis Globe-Democrat*, November 11.

Cranston, R.I.

John P. Byrne complained that the Cranston Public Library makes pornography available to children. To prove his point, he read parts of the library's copy of *The Sensuous Woman* to the City Council. The library trustees heard Byrne's complaint a month earlier and voted to affirm their policy of support for the freedom to read. Byrne said, "The cancer in the Cranston Public Library is not the books but the questionable ethics of the board of library trustees that allow this condition to exist." Byrne and two others at the meeting said Rhode Island's new pornography law applies to libraries. The law prohibits the sale of obscene books and magazines in places frequented by children. After deliberation, Mayor James L. Taft, Jr., proposed a plan under which the library board will establish the age at which a child can be issued an adult card. Parents would receive flyers informing them that the library may contain materials objectionable for their children. The parents would then have the option of having their children receive an unrestricted library card or a card restricting the child's reading until an age designated by the parents. The plan is expected to meet board approval. Reported in: *Providence Journal*, October 27; November 5.

Providence, R.I.

Rhode Island's Attorney General Richard J. Israel declared that magazine sellers "are running the risk of prosecution" under a recently enacted state obscenity law if they display the November issue of *Playboy*. Noting that the issue contains "still shots from X-rated movies," he suspects that *Playboy* violates the law which forbids the display of materials containing "pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex." While the local International Brotherhood of Electrical Workers has urged the attorney general to rule recent *Playboy* issues obscene, the state's ACLU affiliate has criticized his threat and urged newstands to "return *Playboy* magazine to full view." Reported in: *Providence Journal*, October 21.

Providence, R.I.

Superior Court Judge William M. MacKenzie excluded *Journal-Bulletin* reporter Francis L. Murphy from a bail hearing in the courtroom. The closed hearing resulted in Judge MacKenzie denying bail to a defendant awaiting trial on charges stemming from a shotgun slaying. The judge said he acted under well-established authority in conducting the hearing in a closed courtroom, and that for the purpose of the hearing, the courtroom was only an extension of his chambers. He said that when a defendant seeks bail on such serious charges, the hearing can be held in chambers to protect the defendant's right to a fair trial. Reported in: *Providence Bulletin*.

Warwick, R.I.

Police Chief Joseph Gallucci, spurred by a report that "objectionable material had been found on the shelves of a public library in another city," conducted a "smut hunt" in the Warwick Public Library. Afterwards, Gallucci said, "We didn't expect to find anything, and we didn't find anything." Said the *Providence Journal*, "Chief Gallucci has certified to the moral cleanliness of the Warwick Public Library—and how many public libraries can claim a seal of approval from local snoopers? It's also nice to know that things are so calm and orderly in Warwick that the police have nothing better to do than prowl public library aisles." Reported in: *Providence Journal*, October 2.

"That government which most scrupulously protects and encourages complete freedom of thought, expression, communication, investigation, criticism is the one which has the best chance of achieving security and progress."

— Henry Steele Commager

"I have come to the conclusion finally that censorship is wrong and that it raises more questions than it solves." — Bishop Gerald Kennedy, *Fresh Every Morning*. Quoted in *Chicago Daily News*, October 4.

Iowa State Traveling Library Under Fire

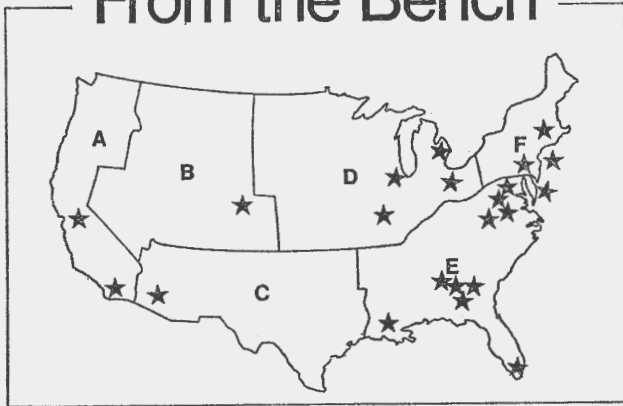
In October the State Executive Council composed of the secretary of state, state treasurer, state auditor, agriculture secretary and governor, voted not to renew the State Traveling Library's subscription to the *Berkeley Barb*. Gov. Robert D. Ray and Agriculture Secretary L. B. Tiddy were absent when the vote was taken. Said auditor Lloyd Smith, "I don't know how [the *Barb*] slipped by last year. I don't think the State of Iowa should spend six cents or \$6.00 for a magazine that's going to assassinate the President." He referred to a *Barb* article headed, "Marx (The One We All Love) says Nixon's Assassination is the Country's Only Hope!" Maurice Travillian, acting director of the traveling library said, "We have a number of state agencies dealing with crime, drugs and violence and I think it's important for them to know what people are saying in papers like the *Barb*. Our state officials should know what's going on."

The Iowa Library Association criticized the Executive Council's action, saying, "ILA deems this action to be a dangerous precedent to destroy free access to all information. While ILA does not necessarily endorse the editorial policies of the *Berkeley Barb*, it feels that libraries have a responsibility to make available this piece of social commentary that represents contemporary life styles."

At least two non-librarian citizens of Iowa offered to pay the \$6.00 subscription. One said, "While I do not personally agree with the *Barb's* editorial policy, I am more afraid of Big Brother dictating what we shall be allowed to read here in Iowa and elsewhere."

In November, Tiddy and Smith also raised objections to the library's proposed purchase of a tape cassette of the musical *Hair*. "That kind of thing should not be on our library shelves," said Tiddy. He further suggested the library dispose of its two phonograph records of *Hair*. These suggestions "flabbergasted" Travillian who said there seems to be a "difference of opinion about what the library should be . . . we feel our job is to present all viewpoints and it scares me that someone in power would want only his point of view represented on our shelves. I think our society is strong enough to withstand a little dissent. If all of this uproar continues, our staff is going to find the conditions impossible to work under." Reported in: *Des Moines Tribune*, October 19; November 9.

From the Bench



PACIFIC COAST STATES (A)

Sacramento, Cal.

The State Supreme Court struck down a Thousand Oaks anti-litter ordinance on the grounds that it interferes with First Amendment rights. In a 5-2 decision, overturning the ordinance which prohibited the delivery of pamphlets or other materials to homes without prior permission from the occupants, the Court said the law should have been written "to aim specifically at those who litter rather than broadly curtailing person-to-person, house-to-house distribution of written materials." Reported in: *Los Angeles Times*, October 19.

San Diego, Cal.

Donald J. Wiener, owner of Gaiety Theater, and an employee, Anthony Menna, were convicted in Superior Court on charges of *conspiring* to exhibit obscene material. An appeal, based on the grounds that a film in question is not obscene, is planned by the defense attorney. Reported in: *San Diego Tribune*, October 22.

ROCKY MOUNTAIN STATES (B)

Denver, Colo.

County Court Judge Irving Ettenberg ruled that seizure for evidence of samples of allegedly pornographic material is permissible. In a case involving the Ace Bookstore, he said that if material is seized as evidence but not in sufficient quantities to remove the entire supply from the store, the seizure is legitimate. Reported in: *Denver Post*, October 30.

SOUTHWESTERN STATES (C)

Phoenix, Ariz.

The state Supreme Court upheld Arizona's obscenity statute and outlined elements which constitute hard-core

pornography. Ruling that *I Am Curious (Yellow)* is obscene, the court set down a definition of hard-core pornography similar to one stated in a 1961 New York Supreme Court decision. The definition, in part, says obscenity "... focuses predominantly upon what is sexually morbid, grossly perverse and bizarre, without any artistic or scientific purpose or justification. . . . It is to be differentiated from the bawdy and the ribald . . . depicting dirt for dirt's sake; the obscene is the vile, rather than the coarse, the blow to sense, not merely to sensibility. . . . It smacks, at times, of fantasy and unreality, of sexual perversion and fitness and represents . . . a debauchery of the sexual faculties." Reported in: *Phoenix Republic*, October 21.

MIDWESTERN STATES (D)

Chicago, Ill.

Seventh U. S. Circuit Court of Appeals Judge Luther M. Swygert and Judge Otto Kerner concurred in a federal panel opinion that a 1965 U. S. District Court rule barring attorneys from discussing cases with newsmen violates the First Amendment. The decision declared unconstitutional the rule prohibiting attorneys from "attempting to explain to any source of news media" action taken in pending court cases. Reported in: *Washington Post*, November 4.

Detroit, Mich.

The Michigan Supreme Court adopted the "pretrial publicity" section of rules drawn up by the American Bar Association, thus prohibiting lawyers from releasing certain information about cases almost from the time of an arrest until after the last appellate consideration. Information under the ban will probably include previous criminal records of the accused, confessions, results of tests or refusal to take them, etc. Michigan newspapers have protested the rules. Reported in: *Detroit News*, October 13.

St. Louis, Mo.

U. S. District Court Judge H. Kenneth Wangelin dismissed a suit filed in behalf of Mrs. Betty Reed, a former Parkway School District teacher who was not rehired after she distributed to other teachers handbills critical of the Missouri State Teachers Association. Mrs. Reed challenged her dismissal on the grounds that it violated her First Amendment right to free speech. Judge Wangelin said Mrs. Reed had "the right to talk and write and distribute handbills but she must bear responsibility of her acts and the consequences thereof. There are limitations to rights, and the board in this case had the right not to rehire her for insubordination." Her attorney, Donald James, said he will appeal Judge Wangelin's decision. Reported in: *St. Louis Post-Dispatch*, October 10.

Columbus, Ohio

Franklin County Court of Appeals Judge Alba Whiteside held that a movie need not be ruled obscene before seizure or arrest of the person showing it. In a case involving the films *Oh, Doctor!* and *Electrosex 1975*, Judge Whiteside rejected the argument "that if a rich Stanley could view an obscene film in the privacy of his home, a poor Stanley should be free to visit a protected theater or library." He said pandering was involved in the advertisements for the films, and that testimony indicated the films were "hard-core pornography" without an adversary hearing. The decision confirmed the conviction of James Albini and two other theater employees. Reported in: *Columbus Dispatch*, October 6.

SOUTHERN STATES (E)

Huntsville, Ala.

A Federal Court Judge banned the display of the Confederate flag and the use of any other "symbols, regalia or indicia of the Southern Confederacy" at any school function in Huntsville. Recently, the playing of "Dixie" at a school football game resulted in a protest from black students at Gadsden High School. Reported in: *Jackson (Miss.) News*, October 7.

Washington, D.C.

U. S. District Court Judge Gerhard Gessell ruled that the Veteran's Administration must turn over to the Vietnam Veterans Against the War any lists it has of names and addresses of ex-servicemen who served in Vietnam. The ruling ends a two-year battle by the group to get the lists. The Veteran's Administration argued that such revelations were not intended in the scope of the Freedom of Information Act. Judge Gessell, however, based his ruling on the fact that the lists were being provided to other groups such as the American Legion and the Veterans of Foreign Wars. The opinion also relied on a recent U. S. Court of Appeals ruling which declared that lists of names and addresses, because they do not reveal anything embarrassing and are not an invasion of privacy, are outside the exemptions in the Freedom of Information Act. Reported in: *Washington Star*, September 29.

Washington, D.C.

The D. C. Court of Appeals upheld an ordinance barring disturbances of religious congregations. It thus confirmed convictions of two men who distributed leaflets without permission during a church service. The ordinance was challenged on First Amendment grounds, but the Court found that, "... a legitimate governmental interest in protecting freedom of worship as well as the maintenance of peace and good order in the community underlies [the ordinance.]" The leaflets accused the parish of subscribing to "racist policies." Reported in: *Washington Post*, November 25.

West Palm Beach, Fla.

Federal Judge Emmett Choate, ruling in a suit filed by promoters of *Hair*, declared that the city of West Palm Beach's refusal to allow *Hair* to use the city auditorium was constitutional. He based his decision on the fact that the city used economic grounds as its reason for the refusal. City attorneys said the auditorium was not rented to *Hair* because of the effect it would have on the auditorium's reputation and future business since it was not "family entertainment." Reported in: *West Palm Beach Times*, October 23.

Atlanta, Ga.

A federal court jury convicted Micheal G. Thevis on nine counts of disseminating obscene materials through the mail. Thevis owns two publishing companies, The Book Bin and Pendulum Books, Inc. The jurors read three paperbacks and four magazines to determine the question of obscenity. Thevis could be sentenced to five years in prison and/or a \$5,000 fine on each of the nine counts. Reported in: *Atlanta Journal*, November 11.

Atlanta, Ga.

The State Supreme Court overruled a decision by Fulton County Superior Court Judge Jack Etheridge and ruled that two films presented "probable cause" for a jury trial to determine whether the films are obscene. Judge Etheridge had ruled that sexual activity depicted in the films was merely simulated and therefore not obscene. The Supreme Court rejected this finding and said the films speak for themselves. Reported in: *Atlanta Constitution*, November 6.

Atlanta, Ga.

Ruling in a suit filed by Southeastern Promotions, Ltd., a New York firm handling bookings for *Hair*, U. S. District Court Judge Newell Edenfield held that Atlanta must allow *Hair* to be performed at the Civic Center. The firm charged that the City of Atlanta refused to allow the rock musical to play at the Civic Center "because it was not the kind of entertainment which [the city] felt was proper or desirable in Atlanta." The promoters contended the City's action was an unconstitutional prior restraint of free speech. Reported in: *Atlanta Journal*, October 10; 29; November 6.

New Orleans, La.

The operators of the Metarie Theater agreed to a District Court Judgment requiring it to submit all R- and X-rated films to the district attorney or his representative for review prior to showing. In effect, the judgment enjoins the showing of such movies without district attorney approval. Violations could result in contempt of court charges. Reported in: *New Orleans Clarion-Herald*, September 30.

Baltimore, Md.

Circuit Court Judge Meyer M. Cardin upheld a ban imposed by the Board of Motion Picture Censors against the film, *Doctors from Copenhagen*. Judge Cardin said the language in one scene is "by far the worst this court has ever heard in a movie." He declared parts of the movie patently offensive and utterly without redeeming social value. Reported in: *Baltimore Sun*, October 7.

Glen Burnie, Md.

Sandy Parsons, co-owner of a novelty shop, was fined \$100 in court costs after conviction for selling a pornographic poster to a ten-year-old boy. The case was the first in Anne Arundel County under a new Maryland obscenity statute containing broad prohibitions against sales of pornographic material to minors under 18 years of age. The material in question was a poster depicting couples engaged in sexual intercourse. Parsons denied selling it to the boy or to anyone else, and said the same poster was for sale at other novelty shops in the Glen Burnie area. Reported in: *Baltimore Sun*, November 3.

Richmond, Va.

U.S. District Court Judge Robert R. Merhige, Jr. ruled that Virginia college papers have a clear constitutional right to carry advertisements and information about the availability of abortions. He placed George Mason College (Fairfax) and the state of Virginia on notice that any effort to cut off financial support for college newspapers would result in a restraining order forbidding that sort of punitive action. The decision resulted from a class suit brought by George Mason students to protest a proclamation by Assistant State's Attorney General William G. Broaddus who said that "anyone who publishes information advertising the availability of abortions will be prosecuted." Reported in: *Richmond Times-Dispatch*, November 23.

NORTH ATLANTIC STATES (F)

New York, N.Y.

Criminal Court Judge Irving Lang, ruling in a case involving a Times Square movie theater, upheld a new state law forbidding public display of sex-related material not necessarily prohibited by U. S. Supreme Court decisions on pornography. Judge Lang said the "right of the state to protect public sensibilities from the public display of explicit sexual material" was greater than the First Amendment privilege of a movie theater owner to advertise his materials. Reported in: *New York Times*, November 10.

Trenton, N.J.

The New Jersey Supreme Court reversed a lower court conviction of newspaper publisher Joseph Matzner

for publishing an editorial in *Wayne Today*, a weekly newspaper. The editorial referred to a court case and characterized charges involved as "incredibly stupid" and "trumped up" and said a fair trial could not be expected before a Passaic County jury. The Supreme Court ruled that the prosecution failed to prove Mr. Matzner either wrote or authorized the editorial. The Court set aside the question of whether such editorials "create a clear and imminent danger of substantial prejudice to the fair administration of criminal justice." Reported in: *New York Times*, November 23.

Providence, R.I.

Superior Court Judge Joseph R. Weisberger ruled that members of the Providence Bureau of Licenses must go to New York to view *Hair* before deciding to refuse to license it for a five-day run at Veterans Memorial Auditorium in February. Judge Weisberger said it would be unreasonable to expect the production to come to Providence for the "preview." The promoters will pay for the trip. The Bureau's option is to grant the license. Reported in: *Providence Journal*, November 11.

"Women in literature for young readers from preschool age to junior high school generally have been limited to roles as homemakers, secretaries, nurses, teachers and assistants.

These were considered "acceptable" vocations. But not all women want to go into these occupations.

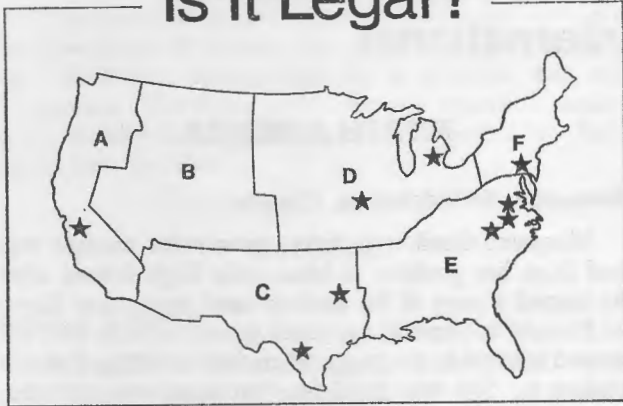
I think more writers in the future will create a positive image whereby a girl can be what she desires and doesn't have to be cast in a domestic or romantic role. The girls will be stronger characters, emphasizing their brains and perception."
—Louane L. Newsome, Associate Professor of Library Science, University of Iowa. Quoted in *University of Iowa Spectator*, November.

NJLA/IFC Needs Info

The New Jersey Library Association Intellectual Freedom Committee plans to compile a bibliography on New Jersey intellectual freedom issues, especially the right to publish and disseminate material in any form. The bibliography will cover material encompassing the history of the state.

The Committee would like to obtain any similar published or unpublished bibliographies on intellectual freedom. If *Newsletter* readers wish to help, please send materials to: Joyce Crenshaw, Circulation Librarian, Messler Library, Fairleigh Dickinson University, Rutherford, N.J. 07070.

Is It Legal?



PACIFIC COAST STATES (A)

Merced, Cal.

County Counsel Russell M. Koch ruled that, in general, censoring contents of a student graduation speech violates the U. S. Constitution. His opinion was given at the County Board of Education meeting in response to a question raised by parents of Marla Kamiya who claim their daughter's graduation speech was illegally censored by the Ballico school administration. Reported in: *Fresno Bee*, October 20.

SOUTHWESTERN STATES (C)

San Antonio, Tex.

James Travis, Supervisor for the San Antonio District of the State Alcoholic Beverage Commission, told businessmen that the October issue of *Playboy Magazine* violates a Texas liquor law governing display of lewd pictures. In Austin, ABC attorney Joe Darnall said, "The October issue has a few pages of pictures that we consider lewd and vulgar within the meaning of the Liquor Control Act." Warning tickets were issued to operators of drive-in grocery stores that sell both beer and *Playboy* in the San Antonio area. Reported in: *San Antonio Express*, October 16.

Texarkana, Tex.

Walter Collins, an inmate at the federal prison in Texarkana, filed suit in U. S. District Court to force Warden L. M. Connett and education supervisor William C. Storm to stop interfering with his mail, reading matter, and visitors. Collins is serving a five-year sentence for refusing to be drafted because, according to him, his New Orleans draft board was all-white and the chairman lived in another county. He claims he is barred from receiving certain books and was told by prison officials that "he already received too many books." Reported in: *Louisville (Ky.) Defender*, September 23.

MIDWESTERN STATES (D)

Royal Oak, Mich.

Martin Mitchell, owner of an abortion referral service, filed suit in Federal Court to challenge the constitutionality of an ordinance which prohibits advertising of abortion information. Mitchell also posted a billboard advertisement for his Family Planning, Inc. service. Reported in: *Detroit Daily News*, October 13.

Cedar City, Mo.

The City Council approved an ordinance barring the showing of X-rated movies at outdoor theaters. Reported in: *Jefferson City Daily News*, September 16.

SOUTHERN STATES (E)

Charlotte, N.C.

Producers of *Hair* filed suit against the City of Charlotte and the Auditorium-Coliseum Authority, charging that refusal to allow a November performance violates freedom of speech. The Authority refused to allow the play on the grounds that Owens Auditorium should be reserved for family entertainment. Reported in: *Charlotte Observer*, October 30.

Durham, N.C.

Staff members of *Campus Echo*, a bi-monthly student newspaper, filed suit in the U. S. District Court in Greensboro, charging North Central Carolina University President Albert N. Whiting with unlawfully terminating financial support for the newspaper. The staff charges that Whiting's discontinuance of funds for the paper is an act of censorship. "Really, the whole issue now is whether the students have the right to criticize administration policies in what is supposed to be a student newspaper," said Jae Joyner, *Echo* editor. Reported in: *North Carolina Anvil*, October 9.

Richmond, Va.

State's Attorney General Andrew P. Miller ruled that the University of Virginia's ban on flying the Confederate flag at football games is unconstitutional. Citing a Des Moines, Ia. case, Miller said the ban represents a "prior restraint on First Amendment rights." Dr. D. Alan Williams, vice president for student affairs, promptly rescinded the regulation. The University sought the opinion on the regulation after instituting it because of racial incidents. Reported in: *New York Times*, October 21.

NORTH ATLANTIC STATES (F)

Philadelphia, Pa.

The *Philadelphia Inquirer* filed suit in Commonwealth Court seeking access to State Welfare Depart-

ment records identifying welfare recipients and amounts of payments. The department contends publication of such records may damage recipients' reputations. At the initial hearing, Judge James S. Bowman asked, "If I exercise a constitutional right and my name gets in the newspaper, am I damaged?" A second hearing was set for late November. Reported in: *Philadelphia Inquirer*, November 6.

Reviewers Wanted

From time to time, the *Newsletter on Intellectual Freedom* receives review copies of books and periodicals concerning censorship and intellectual freedom. Because we have a small staff for whom the *Newsletter* is only one of many projects, we cannot always read and review these materials quickly enough to include current reviews in the *Newsletter*.

Consequently, we need your help. We would like to establish an informal group of about half a dozen enthusiastic, reliable people who would volunteer to do such reviewing for us on a regular basis. The only compensations we can offer are the satisfaction of seeing your reviews and bylines in print, and three free copies of the *Newsletter* carrying your review.

Anyone interested in participating in this effort please send us a letter telling us about yourself and describing your knowledge of the subject area. Interest, reliability and the ability to think and express yourself are the main qualifications we are seeking. Write us at: *Newsletter on Intellectual Freedom*, 50 E. Huron St., Chicago, Illinois 60611.

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Intellectual Freedom International

NORTH AMERICA

Moosomin, Saskatchewan, Canada

Margaret Gordon, a home economics teacher was fired from her position at Moosomin High School after she loaned a copy of the underground newspaper *Georgia Straight* to some of her ninth grade students who expressed interest in the paper when they saw Mrs. Gordon reading it. She was fired for "gross misconduct" because parents of eight students complained that an article on homosexuality by a gay man was obscene. The school board said the paper was "too mature for 13- and 14-year-olds." With the aid of the Saskatchewan Teacher's Federation, Mrs. Gordon is negotiating for an out-of-court settlement, including possible reinstatement. She is also considering legal action because she believes that "this is an important civil liberties case concerning the rights of teachers." Reported in: *Georgia Straight*, October 8-12.

Tisdale, Saskatchewan, Canada

The Canadian Post Office ruled that Tisdale may not call itself the "Land of Rape and Honey." The Tisdale area produces rape seed, a major source of edible oil, and also produces a good deal of honey. Reported in: *Washington Daily News*, October 6.

LATIN AMERICA

Lima, Peru

The Peruvian government enacted a General Telecommunications law giving the state the power to acquire 51 percent of the shares of all television stations and 25 percent of the interest in radio outlets. The new law requires all station owners and employees to be Peruvian born. Another clause prohibits anyone from owning more than one station in each state. The Peruvian content of all programming was ordered raised to at least 60 percent from the present 36 percent. All advertising must be of Peruvian origin. Reported in: *New York Times*, November 11.

Montevideo, Uruguay

All of Uruguay's major daily newspapers shut down on November 6 in a 24-hour protest against government suspension of the leftist newspaper, *El Eco's* operations. President Jorge Pacheco Areco ordered the newspaper to shut down for ten days because of alleged violations of strict security measures that include press censorship. Reported in: *Richmond Times-Dispatch*, November 7.

Caracas, Venezuela

The government confiscated an afternoon edition of the newspaper *El Mundo* for publishing a secret report on Colombian preparations for a possible war with Venezuela. The Army told radio and television stations not to divulge the report's contents. Reported in: *Baltimore Sun*, October 2.

EUROPE

London, England

Ruling in a case involving the underground newspaper *Oz*, the Court of Appeal declared that the practice of judging a work as a whole to determine obscenity applies only to books, not newspapers. (The U. S. Supreme Court rejected that approach in 1957.) The Court of Appeal held that a book is a "single artistic unity," whereas the editor of a periodical can easily delete offensive items. The Court also held that, in the future, expert witnesses will not be allowed to testify as to what is or is not obscene. That question will be for the jury alone. Reported in: *New York Times*, November 6.

London, England

Despite the many laws governing obscenity and indecency, pornography in Britain has reached proportions comparable to those in New York City or Copenhagen. John Trevelyan, the secretary to the British Board of Censors, resigned his post July 1 because he had had enough. Birmingham city councilor David G. Bevan said last May that permissiveness would ultimately lead to "humans copulating on the streets, while dogs throw buckets of cold water on them." The English laws, ranging from the Vagrancy Acts of 1824 and 1838 to the Obscene Publications Acts of 1959 and 1964 have not stemmed the flow of pornographic films, porno shops, sex boutiques, and live sex stage plays. As a result, the House of Commons voted on May 6 to ban the unsolicited mailing of printed matter which "describes or illustrates sexual techniques." Ironically, British pornographers have encouraged business by suggesting that their wares are depraved, and by advocating control of erotica. But "there are signs that obscene material intended to turn people on is rapidly turning them off through sheer boredom and surfeit." Reported in: *Flint (Michigan) Journal*, June 15.

London, England

Three underground magazine editors of *Oz No. 28* — *Schoolkids Issue* were convicted in July for publishing, distributing and possessing an obscene article. In denouncing the verdict against the magazine, which was supposedly put together by high school students for distribution to their peers, the National Council for Civil

Liberties said, "There is a calculated attempt being made to suppress opinions and attitudes, particularly those of the young, that conflict with the rigid morality of an elderly establishment." The judge quoted from the *Bible* to clarify the court's opinion: "But who so shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged around his neck, and that he were drowned in the depth of the sea." The judge's sentence was not as severe as that recommended by the scriptures. One editor was jailed for 15 months and recommended for deportation. The others received jail sentences of one year and nine months respectively. The British *Daily Mail* reacted to the severity of the sentences by declaring them "excessive to the point of judicial brutality." Reported in: *Uganda Times*, August 7.

Athens, Greece

The government published a law applying to local and foreign journalists listing a variety of "disciplinary" offenses which carry penalties ranging from light fines to lifetime expulsion from journalism. Under the law, journalists may be punished for using indecorous language, for leading an "undignified" private life, or for deviating from "the public mission of the press." Reported in: *New York Times*, October 13.

Athens, Greece

The publisher of the English-language *Athens News* was ordered to stand trial for violating the press law in a story on the arrival of Vice President Agnew in Greece. The story was headlined "Bombs, Recruited School Children Greet Agnew." Reported in: *Washington Post*, October 25.

Frosinone, Italy

Giuseppe Milionario and Dario Gubernati, disciples of the "pretender" Pope Clement XV, were sentenced to nine months in jail for insulting Pope Paul. The men distributed leaflets at the papal summer palace at Cassel Gandolfo three years ago. Reported in: *Philadelphia Bulletin*, November 17.

Rome, Italy

News vendors in Venice, Florence and Genoa have proclaimed a "state of war" because a dozen were arrested and several hundered are under criminal investigation on charges of distribution of pornographic material. Materials seized in a current police crackdown had been imported from Denmark. Colleagues of the defendants jeered and booed when the public prosecutor alleged that Genoa vendors pocketed more than 50 percent of the sale price of pornographic publications, nearly double the normal commission. The anti-smut drive is being conducted under a decision by Italy's highest tribunal, the Constitutional Court. Reported in: *New York Times*, November 22.

Lisbon, Portugal

A new Portuguese press law, approved by Parliament on August 5, gives newspapers and periodicals more freedom while still permitting government censorship during national crisis. Censorship will be imposed during states of emergency and martial law and when "grave acts of subversion are taking place in the country, whether or not an emergency or martial law has been declared." Although it may encourage the start of new periodicals, the law still prohibits newspapers from defaming government leaders, and foreign leaders, or their ambassadors in Lisbon. Newspapers and journalists guilty of grave and frequent violations of the law are subject to government censure, fines and prison sentences. Reported in: *International Herald Tribune*, August 6.

Bucharest, Romania

Writers rebelling against President Nicolae Ceausescu's new program of Communist Party controls on the arts have dispatched a flood of manuscripts of novels and essays to France and Germany for translation. The explanation given was that the writers believe the Romanian internal situation is so tight, they cannot expect to have their work published in the foreseeable future at home. Publishing sources say the manuscripts include work by Paul Goma, author of *Obstinate*, a book about Russia under Stalin. Reported in: *Christian Science Monitor*, November 15.

Madrid, Spain

The children who acted in Spain's first sex education film, *Good-by, Stork, Good-by*, will not be permitted to view the film because they are under-age. The guardians of Spain's morals ruled in October that the film is for adults only, though it was produced for young people. Its producer, Manuel Summers, presently waiting trial for alleged insults to the Roman Catholic Church, says the film aims to tell children the truth. Police regularly check identification cards at theaters where the film has become a box-office hit for adults. Reported in: *Chicago Daily News*, November 30.

Madrid, Spain

Reportedly, authorities threatened to close *Madrid*, a newspaper, in an attempt to force removal of its liberal editor. The Information Ministry served an order on the newspaper stating that an investigation began into "irregularities" in the original listing of its stockholders. The newspaper was given ten days to reply. After that, the ministry is empowered to cancel the papers registration, thus closing it. Reported in: *New York Times*, October 31.

Stockholm, Sweden

After protests and demonstrations climaxed in a smoke bomb explosion, Warner Brothers withdrew *The*

Green Berets, starring John Wayne, from a Stockholm theater. Protesting Swedes claimed the film "glorified American aggression in Indochina." Reported in: *Philadelphia Inquirer*, October 24.

Moscow, U.S.S.R.

Roy Medvedev, a dissident historian, wrote an open letter to *Pravda* protesting a government search of his apartment which resulted in seizure of many of his papers. Among the papers was a typescript of his long work on the Stalin era which has not yet been published. Also seized were files containing material on Stalin. Medvedev said the search was supposedly in conjunction with criminal charges against a former colleague accused of stealing books from libraries. Reported in: *Washington Post*, October 19.

Bonn, West Germany

Apparently with Chancellor Willy Brandt's approval, public prosecutors interrogated editors of three publications about the leaking of a secret telegram sent to the Foreign Ministry by the West German Ambassador in Washington. In reaction, one newspaper not involved pointed out caustically that the government is reactivating a long-dormant press control ban from the Gestapo era in pursuing inquiries that held the threat of jail penalties. Reported in: *Baltimore Sun*, November 21.

Cologne, West Germany

A Cologne court upheld state confiscation of piggy-banks designed by Duesseldorf artist, Hans Alvermann. The court ruled that the piggy-banks may bear the West German colors—black, red and gold—but not a swastika. Alvermann designed the banks in 1965 to protest "state of emergency" laws. Reported in: *Baltimore Sun*, October 24.

AFRICA

Casablanca, Morocco

The nation's three largest newspapers — *Espana*, *Le Petit Marocain*, and *La Virgie Marocaine* — were closed down by the government. A fourth paper, *La Depeche*, announced the same day that it would voluntarily cease publication. Two new dailies will be printed by the government on presses confiscated from the defunct papers. The suppressed papers espoused the cause of "extremist colonial elements." Reported in: *New York Times*, November 21.

Salisbury, Rhodesia

Government censors banned Kate Millet's *Sexual Politics*. No reason was reported. Reported in: *New York Post*, November 20.

Cape Town, South Africa

Labor Minister Marais Viljoen warns that the government may take action against English language news-

papers to curtail "one of the most poisonous and irresponsible agitations that the English press has ever unleashed in South Africa." The newspapers are highly critical of Prime Minister John Voister's administration for instituting the Terrorism Act designed to curb the "political struggle in South Africa" which has "given way to political guerrilla tactics and subtle political terrorism." Reported in: *Christian Science Monitor*, November 8.

Cape Town, Union of South Africa

Post Master General Louis F. Rive censored an advertisement containing a bikini-clad girl in the Southwestern Cape Telephone Directory. He said, "It is the principle involved . . . in future all post office publications will meet my approval before we start printing." Reported in: *Richmond News Letter*, October 30.

Johannesburg, Union of South Africa

Government censors have banned panty-hose packets picturing models wearing nothing except a body-stocking. Reported in: *New York Times*, September 26.

Pretoria, Union of South Africa

The South African government banned Nelson Mandela's book, *No Easy Walk to Freedom*. Mandela, a former leader of the outlawed African National Congress party, is presently serving a life sentence for subversion. Reported in: *Washington Star*, September 8.

ASIA

Rawalpindi, Pakistan

Prepublication censorship has been lifted but Pakistan's news agencies and newspapers remain under a martial law regulation which forbids material which "directly" or "indirectly" prejudices the nation's solidarity, criticizes the martial-law regime, creates alarm, creates ill will among the various groups of Pakistanis, or insults the Moslem religion. Reported in: *Philadelphia Bulletin*, October 10.

Saigon, South Vietnam

The government confiscated editions of eight Saigon daily newspapers and suspended two news agencies—some of them for speculating that vice president-elect Tran Van Huong had tried to commit suicide. Government sources said the papers were confiscated for violating the press code with articles "likely to sow confusion among the masses." Reported in: *Washington Post*, October 9.

Saigon, South Vietnam

The government's Office of Information issued a new directive to the press to avoid material "detrimental to national security and public order." Three "proposals"

to be followed to preclude seizures and government prosecution included: (1) not to publish proclamations issued by illegal organizations or by military factions that might "sow confusion among the broad masses," or "foment troubles harmful to the national security and public order"; (2) not to use "inciting headlines related to irresponsible statements or law-breaking actions"; and (3) "to avoid playing up or dramatizing facts or spreading inaccurate news." Reported in: *New York Times*, October 21.

OCEANIA

Brathurst, Australia

Terrence Smithells, a 20-year old laborer, pleaded guilty to "displaying unseemly words, an obscene representation, so that it was within view from a public place," and was fined \$50.00. The "obscene representation" was a tattoo on his left wrist with a "three-word expression referring to police." Reported in *Washington Post*, October 13.

Wellington, New Zealand

The indecent publications tribunal banned William Edward Sprague's *Sex, Pornography and the Law*. It also ruled that *Naked Came the Stranger* and *Sex Over Forty* are obscene for minors. Reported in: *Washington Post*, September 14.

Actions speak louder than words. Join the Freedom to Read Foundation. Membership applications are available from the Freedom to Read Foundation, 50 East Huron Street, Chicago, Illinois 60611.

School Boards, Take Note

After losing a court battle to keep underground student newspapers out of high schools, the city of Stamford, Conn. discovered that its costs will be more than \$12,000. Corporation Counsel J. Robert Bromley estimated the cost of the case at "\$40 or \$50" per hour and added that this is the "normal charge for this type of law firm in this type of situation." (For details of the case, *Stamford Board of Education vs. Eisner*, see May, 1971 *Newsletter*, p. 58.) Reported in: *Hartford Courant*, November 18.

"By giving everyone's voice a chance to be heard, we will have government that truly is of the people."

— President Richard Nixon, *State of the Union Message*, January 22, 1971.

Viewpoint : If Dirty Art Is Censored, Who Will Do the Censoring?

Clifford A. Ridley

[Mr. Ridley is a news editor for The National Observer published by Dow Jones Co., Inc.]

The gloom-and-doom boys in the artistic spectrum have been warning artists for some time that if they don't use their new freedoms responsibly, they're asking for trouble. The trouble, it appears, is nigh upon us. Many state legislators and other officials, restive in the face of the new morality to begin with, are turning downright surly. And now comes Prof. Irving Kristol, whose liberal *bona fides* are well in order, with a long argument for nothing less than state censorship.

Writing in the *New York Times Magazine*, Mr. Kristol passes quickly over what many people, including me, consider the real contemporary pornography; the pornography of violence. His concern is chiefly with the pornography of sex, particularly with its power to corrupt and debase. Few would dispute that it has such power — few would dispute that whisky can make you drunk, either — but the question is how much and for how many. In the absence of empirical evidence, Mr. Kristol undertakes to prove corruption by logic.

He takes issue, first, with the frequent assertion that nobody was ever corrupted by a book. Well, I think that's a little extreme — a few people *are* corrupted by books — but I don't think Mr. Kristol does his cause any good by suggesting that if no one was ever corrupted by a book, no one was ever improved by one either. Literary self-improvement, after all, is a function of the mind, while literary sexual corruption affects a quite different portion of the anatomy.

It is the corruption of essentially private behavior that particularly bothers Mr. Kristol; as example, he notes that we do not film or televise the gradual extinguishing of humanity — i.e., an actual lingering death. He does not note, however, that we do film and televise the *abrupt* taking of life in our everyday war and crime reportage — with effects that are doubtless both bad and salutary — and we do simulate death of all kinds on stage and screen. If these deaths are permissible but an actual lingering one is not, who is to decide how efficient an actual death must be, how untruthful a simulated one, before it is fit to be shown to us?

It's a moot question, of course. We will never invade the privacy of a slowly dying man simply because no sane person wants to watch such a thing. And although there are a number of reasons why not — fear of mortality, and so on — the prime one is simply that we have an innate delicacy about such occurrences. I

honestly believe that most people do respect purely private matters, that they will not willingly debase themselves.

But, you may argue, what about the viewing of stag films and the like? "When sex is public," Mr. Kristol says, "the viewer does not see — cannot see — the sentiments and the ideals. He can only see the animal coupling." And so he can, but isn't that precisely the point?

In other words, the argument goes like this: "The act of love, when made public, is debased because it's not the act of love." But if it's not the act of love, then the act of love is not being debased. The moment two people agree to copulate before a camera, love is no longer part of the action, and nobody should think it is.

" . . . and voyeurs don't get bored with voyeurism."

Don't misunderstand; I see little point in habitual attendance at stag films; I am arguing only that they really don't debase anybody. Can one, then, condemn pornography on other grounds? Mr. Kristol does. He notes the oft-heard assertion that people eventually grow bored with pornography and insists that they don't, that it in effect becomes a way of life. "Put bluntly," he says, "it is a masturbatory exercise of the imagination. . . . Now, people who masturbate do not get bored with masturbation, just as sadists don't get bored with sadism and voyeurs don't get bored with voyeurism."

That is an extraordinary statement. It is unfair, to begin with, to equate sadism and voyeurism, which are illnesses, with masturbation, which is a normal form of sexual release. Beyond that, the suggestion is simply not true; most people grow bored with masturbation as soon as an alternative becomes available to them — just as most viewers of blue movies soon conclude that they prefer the participatory form of this particular drama. (This is as good a time as any to note that here, as elsewhere, I am talking about adults; children are another matter.)

But Mr. Kristol insists on his view of pornography as autoerotic infantilism; it is the cornerstone of why he thinks it does no less than endanger civilization as we know it. "Those who are for pornography and obscenity, on radical grounds," he says, "take it very seriously indeed," and he suggests that once campus radicals have been appeased on the issue of public four-letter words, they have "won the day." Thus missing the point en-

tirely, for the reason the campus radicals set such store by public obscenity is precisely because they know many *other* people take it seriously and are bugged by it.

Perhaps, on grounds of prevailing community standards and with great attention to what community you're talking about, public obscenity may be forbidden, but in aim it is no more than a harassing device, a diversionary tactic, a razzberry, a put-on. It's not designed to accomplish anything; it's designed to annoy people, as are verbal assaults on patriotism and the church. To be sure, the kids don't like their elders' uptight view of verbal communication, but they don't expect to change it by a few posters.

Proceeding on the dubious grounds that pornography corrupts, Mr. Kristol goes on to argue for censorship within the pre-Twentieth Century view of democracy — which, he says, addressed itself to the quality of its citizens' collective lives as well as to the mechanics of the means by which they lived together. Implicit in this argument is the notion that free people will inevitably corrupt themselves; and since I neither buy that gloomy prognosis nor agree with Mr. Kristol's view of corruption, I won't rise to the bait.

I think it worth mentioning, however, that the arts available for censorship today and those similarly available 70-plus years ago are quite different things. In the old days, the censor scanning his day's work knew pretty much what to expect. There were few surprises; changes in attitude and technique arrived with assimilable slowness. Today, however, in an age when one often must meet with a book or movie two or three times simply to determine what the creator is up to, plucking the weeds of salaciousness from the garden of metaphor can be a back-breaking task.

Putting it another way, not long ago censoring sex meant censoring sex — period. Today, however, censoring sex can mean censoring the whole point of a piece of art, for the sex often exists in some kind of interrelation with something larger than itself. Would Mr. Kristol shunt *Blow-up* to the back room because of its celebrated nude romp in the photographer's studio, a first-rate stand-in for the aimlessness of the fellow's existence?

I use "back room" advisedly, for Mr. Kristol apparently would not ban things; he would restrict them to "serious" viewers or readers. As an example, he cites the British "club" system of presenting allegedly erotic plays — although the British have discarded it as unworkable. He acknowledges that his proposal would create an elitist pornography; and although he finds this irrelevant, I do not.

In one sense, pornography is elitist already; studies indicate that our most strait-laced citizens are in the lower socio-economic brackets. The danger is that in institutionalizing this elitism, the permissible stuff will not be that which might serve some artistic purpose by talking to people's experience — the commonly bawdy,

or the eroticism peculiar to a particular subculture — but the "sophisticated" pornography of the elite. You have only to recall that Jack Valenti thought *Myra Breckenridge* a fun spoof to determine what kind of shaky standards might obtain if we left censorship to our leaders.

Mr. Kristol thinks the dangers of censorship are minimal. He notes that we have been visited by few suppressed old masterpieces since the gates were opened, and so we have. But — noting only in passing that the suppression of even one masterpiece is a crime — what does that prove? We also have been visited by few masterpieces on potato farming, or in which the hero is lefthanded. Masterpieces are few by nature, and no subject or technique is going to produce very many of them.

As for the present, Mr. Kristol grouches that "the cultural market in the United States today is being preempted by dirty books, dirty movies, dirty theater." In theater, at least, that's simply not true; and if it is true in books and movies, which is debatable, it's true only if one assigns the broadest kind of interpretation to the word "dirty." Which gets me at long last to the inevitable nub of this censorship business: What are you going to throw out, and who's doing the throwing?

It would appear, for instance, that the prevailing literary mood thus far in 1971 is black sexual farce — witness *The Bushwacked Piano*, *Lion Country*, and *Wake-Up. We're Almost There*, all treated in these pages [in *The National Observer*] (the last of them this week), with at least a couple more around the bend. Each of these books has been reviewed here in terms ranging from approving to ecstatic. Are these the books Mr. Kristol has in mind to censor?

Or does he have Harold Robbins in mind? Few people would argue that Harold Robbins is good — but then that's not why people read him. I know a nice lady who has read practically the entire *oeuvre* of Harold Robbins because she says he takes her mind off being scared in airplanes, and to my knowledge she hasn't gone out and assaulted anybody yet. Since I think it implicit in Mr. Kristol's argument that censorship is a perfectly simple matter because he knows precisely what ought to be censored, I think I ought to warn him: He's going to have to deal with my mother.

— Reprinted with permission from *The National Observer*.

"We must launch and finance a massive program of sex education to produce healthy attitudes toward sex in our children." — William B. Lockhart, Chairman, National Commission on Obscenity and Pornography. Quoted in *Kansas City Times*, October 21.

Viewpoint : The Case Against "Liberal" Censorship

Eli M. Oboler

[Mr. Oboler, Idaho State University Librarian, has a book forthcoming from ALA entitled *The Fear of the Word: Censorship and Sex*. He is a member of the Board of Trustees of the Freedom to Read Foundation and a recent active member of the ALA Intellectual Freedom Committee.]

The Henry Luce Professor of Urban Values at New York University, Irving Kristol, was rather less than urbane in his strictures against pornography and obscenity — or what he defines as such — in his March 23, 1971 article, "Pornography, Obscenity, and the Case for Censorship," which first appeared in the *New York Times* magazine and was recently reprinted in two issues of this *Newsletter* (September and November, 1971). He has exhumed a great many of the tired old pro-censorship arguments, but added a new dimension; he has coined a new phrase, "liberal censorship," which, despite all protestations to the contrary, is clearly a contradiction in terms.

Indeed, his whole essay, is on the hyperbolic, exaggerated level illustrated by his undocumented statement that ". . . pornography . . . is inherently and purposefully subversive of civilization and its institutions." He is even more specific and direct in this: ". . . if you care for the quality of life in our American democracy, then you have to be for censorship." Blithely, he sells creative art down the river: "There are . . . 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* [my italics] one has to be prepared to pay for censorship — even liberal censorship." Snick-snick! Off with Boccaccio's head! Snip-snip! Eliminate Rabelais! And Joyce and Swift and Henry Miller and — but Kristol, contrary to all factual evidence, says, "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."

Let alone the gross inexactitude of this dogmatic opinion, Kristol really ought to do a little study of the hundreds of years and thousands of literary creations between the writing of *Beowulf* and the first English legal censorship, that of Edmund Curl's *Venus in the Cloister*, in 1727. During those centuries after centuries, "most" of the history of English literature occurred. The quoted statement is only one of many examples of Kristollian *obiter dicta* which have a nice, ringing

sound — but are actually quite hollow of solid fact, when closely examined.

It is really almost incredible that he would seriously make such a statement as "very few works of literature — of real literary merit, I mean — ever were suppressed; and those that were, were not suppressed for long." The long, long list in Anne Haight's well-

**"I am human, but everything
human is alien to me."**

known *Banned Books* is a simple answer to the first claim; and it is certainly a specious, unsound argument to say that "those that were, were not suppressed for long." Any length of time is contrary to the fundamental tenets of freedom of speech and expression in which, presumably, "liberal" Kristol believes.

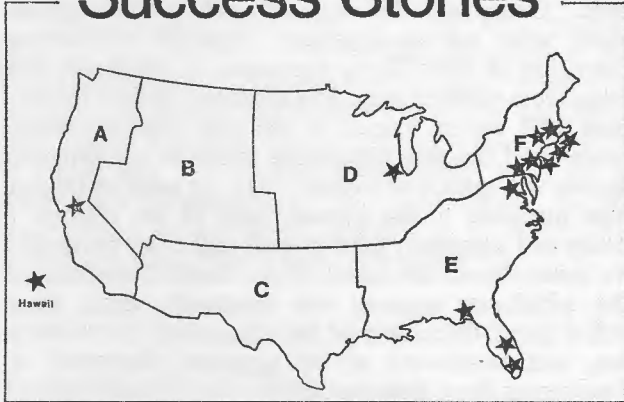
Incidentally, near the end of his article, he admits that "We had censorship of pornography and obscenity for 150 years," which in simple mathematical process would indicate that censorship began in 1821. This is a most interesting date, just about 93 years after it historically began! Kristol, as I said, needs at least a capsule course in the facts of the story of censorship.

If Kristol's facts were right, one might be willing to consider the logic of his argumentation, which, on the whole, is rather persuasive. But if "liberal" censorship has to be based on misinformation and exaggeration, then it is no more worth the consideration of reasonable men and women than *illiberal* censorship.

Admittedly, this brief reply to Kristol is itself in a polemic, rather than in a reasonable vein. The reader is referred to my forthcoming book for a lengthy, historically based, positive set of facts and arguments concerning the merits and demerits of censorship of writings about sex. Suffice it here, in a necessarily limited space, to say that Kristol has clearly failed to consider the most basic of all issues in the censorship/non-censorship dispute.

In a long perspective, the fear of the word is really the fear of the human. Like reverse Terences, those who censor and favor censorship are really saying, "I am human, but everything human is alien to me." Men and women are men and women *because* of their sexual drives, and denial of this fact by even a never-ending line of censors — liberal or illiberal! — will not eliminate maleness and femaleness and the male-female relationship. The censor will never outlast biology.

Success Stories



PACIFIC COAST STATES (A)

Sacramento, Cal.

The State Board of Education issued a new policy for local school districts regarding student conduct in the areas of speech, circulation of petitions, publishing of newspapers, use of bulletins and wearing of insignia, including buttons and armbands. The new policy urges districts to "encourage students to express opinions, to take stands, and to support causes. . . . There should be no prior censorship or requirements of approval of the contents or wording of the printed materials related to student expression on campus." The new guidelines resulted from a three-judge federal panel decision in September, 1970, which held unconstitutional State Education Code provisions restricting student expression on campus. Reported in: *Los Angeles Times*, October 16.

Honolulu, Hawaii

The Navy lifted its ban against peace symbols on vehicles entering Naval bases on Oahu. The ban was instituted in 1969 because barracks and other structures were painted with "obscene and abusive antimilitary sentiments." According to the new district commander, "the reason for the banning of peace symbols no longer exists." Reported in: *Honolulu Star-Bulletin*, September 8.

MIDWESTERN STATES (D)

Hinsdale, Ill.

Mrs. Charles Maves of Darien objected to the use of *Catcher in the Rye* in a sophomore English class at Hinsdale High School. Terming the book "trash," Mrs. Maves said, "I refuse to have my 15-year-old daughter read it." The book appears on a required reading list for a class in which her daughter is enrolled. Superintendent Ronald W. Simcox said that Mrs. Maves' daughter is not being required to read the book as part of her English program. School Board President George Frederick advised Mrs. Maves of the "proper channels" for

her protest. Her objections to the book were subsequently considered at a public hearing of District 88's special review committee, composed of faculty, administration, and board representatives. The Committee recommended that use of the book be continued. The school board concurred. Reported in: *Chicago Sun-Times*, October 27.

SOUTHERN STATES (E)

Washington, D.C.

Hearings on postal rates as they affect freedom of the press will be conducted by the Subcommittee on Constitutional Rights of the Senate Judiciary Committee in 1972. Reported in: *AAP Washington Newsletter*, October 29.

Cocoa, Fla.

After conducting a six-week war against pornography, County Solicitor Jerry Bross announced he is turning the fight over to Brevard County municipal law enforcement agencies. He made his decision after a poll taken at three anti-smut forums sponsored by Citizens for Decent Literature convinced him that county residents do not believe pornography cases warrant top priority by the solicitor's office. Reported in: *Cocoa Today*, October 23.

Miami, Fla.

After a parent complained about sexual descriptions in Nicholas Von Hoffman's *We Are the People Our Parents Warned Us About*, the book was reviewed by a committee of English teachers and librarians and removed from the Miami Central High School library collection. According to Principal Daniel Wagner, "The book was taken off the shelf based on their judgment . . . I only skimmed it and saw what I would call improper passages. I'll have to read the book myself." The book, published in 1968, describes drug use in San Francisco's Haight-Ashbury during the summer of 1967. The parent, M. D. Robinson, Metro Sheriff's Department detective said, "I don't want censorship, but how lax are they getting if they put a book on the shelf that no one has read?" Reported in: *Miami News*, October 5. [On November 3, we were advised by Mrs. Madeline E. Paetro, Dade County School Library Services Consultant, that ". . . the book is in the collection at this time. It had been removed from the shelf following a cursory review by the school's reviewing committee but after a more thorough examination it was replaced." JAH]

Tallahassee, Fla.

Attorney General Robert Shevin, responding to a request by the University of Florida, said he does not believe that *Hair* is obscene. He told reporters he thought the play was "fine" and that its nude scene was

only a minor part of the action. "I have seen it and enjoyed it," he said of a road company version of *Hair* last year in Miami. "It drew raves. Certainly there was redeeming social value in the performance." The University of Florida is negotiating for a performance of *Hair* on campus in February. Officials fear a police raid or criticism from the regents and legislature. Reported in: *Orlando Sentinel*, October 14.

NORTH ATLANTIC STATES (F)

Newton, Conn.

After hearing complaints about the use of four-letter words and criticism of high school administrators, the Board of Education refused to prevent the *Free Press*, a student newspaper, from printing such items, but urged students to form and abide by their own guidelines. The controversy began when an article by Larry Maye in the *Free Press*, described food in the school cafeteria with a four-letter word. Board member Mrs. Jeane Roberts said, "This is most un-American, bordering on totalitarianism, and I will not be part of it." After discussion, the Board refused to approve a set of regulations proposed by the administration which would have allowed faculty advisors to blue pencil "libelous statements inimical to the health and safety of the students, and remarks encouraging interference with the operation of the school." The Board did, however, indicate a desire that the faculty improve the newspaper through a "paternal influence." Reported in: *Danbury News-Times*, October 27.

Lynbrook, N.Y.

The six-member student editorial board for Lynbrook High School's paper, *The Horizon*, was ousted by the administration because of two articles the students planned to print. One article reported that the school band voted not to march in future Memorial Day parades. The other was an interview with Peter Davies, a Manhattan insurance broker who authored a study of Kent State University which concluded that National Guardsmen conspired to shoot students. School board president Robert Bartlett cited a policy establishing the administration as publisher of the paper, and said as such, they have a right to look at what goes into the paper. When informed of the incident, Davies said, "I think they should change the name *Horizon* to *Pravda*." A week later, the New York Civil Liberties Union helped the students' appeal to the board of education. The result was a decision reinstating the editors and establishing a new policy calling for administrative review only of items feared libelous, obscene, or plagiarized. Reported in: *New York Post*, November 6; 12.

New York, N.Y.

Public Broadcasting System (PBS) president Hartford Gunn, Jr. withdrew a *Great American Dream Ma-*

chine segment which accused the FBI of fostering violence. Gunn said the segment made serious charges which were not documented. National Educational Television in New York, producers of the show, said letters were received from FBI director J. Edgar Hoover, three FBI agents named in the film and the Seattle police chief denying allegations made in the program. Hoover was quoted as saying: "On the basis of information available to the bureau, each of the charges is totally and absolutely false in each and every particular. We have referred this matter to the Justice Department." The withdrawn segment was eventually aired, along with a panel discussion of the allegations, documentation, and withdrawal of the segment. Reported in: *Washington Post*, October 7.

Yeadon, Pa.

Eighth-grade teacher Carol Taylor, who was suspended November 8 for playing the record "The Last Poets," was reinstated a week later at a public meeting of the school board. Nathaniel Plafker, acting superintendent of the William Evans School, said he considered the recording (which contains revolutionary poems set to music) questionable because it contains several obscene words. The board president refused a request from a parent to play the record at the open meeting. Reported in: *Philadelphia Bulletin*, November 16.

Cumberland, R.I.

This year's first edition of the Cumberland High School student newspaper *The Clipper* was confiscated by school officials because of a front page article suggesting the town is run by a dictatorial political party. The article, by Robin Nixon, referred to a report that the Cumberland all-Democratic Town Council has not had a dissenting vote cast publicly in thirty-seven years. Miss Nixon wrote, "When I was a young girl I read some books about Communist Russia. There, there was only one party and everybody who got into office in the party voted the same way. Think about it." In the wake of the confiscation's wide publicity in local and national newspapers, Principal Thomas F. Skahan decided the paper could be circulated. Reported in: *Providence Bulletin*, October 14; *Washington Post*, October 15.

North Smithfield, R.I.

The Town Council raised the annual licensing fee for theaters showing X-rated movies from 50 cents to \$50.00 a day. The old annual fee was \$160.00; the new fee for theaters showing X-rated films every day is \$18,250 annually. Reported in: *Philadelphia Bulletin*, November 17.

Pawtucket, R.I.

The City Council voted 6-to-2 to "recommend" to the *Pawtucket Times* and *Providence Journal-Bulletin* that they cease publishing ads for X-rated movies. Reported in: *Providence Journal*, November 11.

Conservative Club Rejects Pro-Nixon

After acquiring the rights to make Allan Drury's *Courage and Hesitation* its November selection, the Conservative Book Club changed its plan. Explaining the rejection of the book, club president Neil McCaffrey said, "What happened was that Nixon's decision to go to China and the price-and-wage freeze have led to disaffection on the part of the conservatives. So, the book, which is pro-Nixon, would not go over." Reported in: *New York Times*, November 21.

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We're Asking You

With the January 1972 issue, the *Newsletter* marks the end of the first year of its revised format. We have received some comments concerning the content and method of presentation, but there have been too few to honestly assess reader reaction. Consequently, we are presenting the opportunity for you to sound off by completing the following questionnaire and returning it to: Editors, *Newsletter on Intellectual Freedom*, 50 E. Huron St., Chicago, Illinois 60611.

- The things I like most about the *Newsletter*:
formatstyle of writingarticles
maps and supporting databibliography
other (please specify)
- The things I like least about the *Newsletter*:
formatstyle of writingarticles
maps and supporting databibliography
other (please specify)

- I did..... did not..... find the *Newsletter* topical.
- The current content is useful..... not useful..... to me.
- I would like to see more emphasis on:
illustrationsgraphs and chartshumor
library-related censorshipcensorship of non-print media [.....filmst.v.theaterrecordingsart displaysother (please specify)]
original articlesreprinted articlesresearchinternational censorshipsurveys and studiesbibliography.
- I would like to see less emphasis onlibrary-related censorshipcensorship of nonprint mediajudicial decisionslegislationother (please specify)

Feel free to include other comments on a separate piece of paper.

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