

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



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Although free access for minors to all materials in library collections was the focal point of its deliberations, several other topics were discussed and acted upon when the Intellectual Freedom Committee met for twenty hours during the 1972 Midwinter Meeting in Chicago, January 23-29. Highlights of the meeting were as follows:

#### How Libraries Can Resist Censorship

The Committee approved a revision of *How Schools and Libraries Can Resist Censorship*, a document originally adopted by the ALA Council on February 1, 1962. It was revised in conjunction with a broader revision of *What To Do Before the Censor Comes — And After*, which appears on pages 49-56 of this *Newsletter*.

The result of the Committee's efforts is *How Libraries Can Resist Censorship*, (pages 49-50), which now applies to all library materials, not only books, and to all libraries, not only school and public libraries. The revision was adopted by Council on January 28, 1972.

#### Library Cards for Minors

"Dual card systems" which restrict minors to the use of only part of a library's collection were discussed by the Committee. It was decided to develop a policy statement clarifying that library procedures such as dual card systems (one for adults and one for minors) violate Article V of the *Library Bill of Rights*: "The rights of an individual to use of the library shall not be denied or abridged because of age. . . ." Prior to the 1972 Annual Conference, the proposed policy will be forwarded to the boards of the American Association of School Librarians, the American Library Trustee Association, the Children's Services Division, the Public Library Association, and the Young Adults Services Division. At Annual Conference it will be presented to the ALA Executive Board and Council for action.

#### Social Responsibility vs. Purism

Recent incidents involving reevaluation and/or banning of some children's books because of alleged racism, sexism, etc., were considered with regard to the *Library Bill of Rights*. The Committee concluded that existing policy statements make it clear that "no library materials shall be proscribed or removed because of  
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## Intellectual Freedom Committee Midwinter Meeting

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

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

Alan Reitman

In Two Parts. Part II

[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 present struggle between, on one side, government and, on the other side, the media and the public, has provoked another confrontation which goes right to the heart of our central question — the impact on individual liberties when government exercises its power. I refer to the way in which the highest individual in government, the President, and the individual citizen outside of government perceive their function and responsibility to the country in the battle over release of information.

Behind the government's torrent of legal arguments in the *Pentagon Papers* case was its emphatic assertion that the President had "inherent" power to decide what information can be released. This power is invoked not only when military and national security is claimed, but in the constant sparring between the President and committees of Congress which want to examine the Executive's papers to see what policies he is pursuing, so the legislature can fulfill its role of proposing legislation and checking on how the laws are being administered.

This question of the so-called Executive Privilege, a misnomer because neither the Constitution nor a law grants such a privilege, is more significant today because it has grown rapidly in recent decades, as the power of the Chief Executive has expanded. The founding fathers established three equal branches of government, each with separate responsibilities and each exerting checks on the other. Yet, our 20th century government, beset by wars, economic upheaval, and global responsibilities, has been characterized by a proliferation of the Executive sphere of influence. A transfer in the government balance of power and influence has occurred, a transfer of power from legislative, and therefore representative, control toward government by the technically competent fraternity of "experts." The Congress' vigilant review of the Executive domain is vital if the trend toward bureaucratic predominance is successfully to be resisted. Moreover, to allow the citizens freedom to flower, to strengthen the movement that is developing at so many levels of society — decentralizing authority so people can better control their destiny — curbs should be imposed by law to limit the Executive's power to refuse information to Congress.

Time does not permit a full-scale analysis of what the curbs should be, but these are some of the major points:

- (1) The idea of a limitless privilege should be ended.
- (2) The Congress, which can be trusted to maintain confidentiality, should receive information pertaining to military secrets and foreign affairs.
- (3) Information that cannot be released under existing laws or because they concern litigation in the courts or legislative reports giving personal background on individuals should remain undisclosed.
- (4) The executive may retain internal records relating to the making of policy, including interdepartmental memoranda, advisory opinions, recommendations or subordinates.

This is no final listing of where executive privilege begins or ends. Our lawmakers need to define the limits more concretely, so that a President, by utilizing "uncontrolled discretion," cannot bottle up information that may not be truly sensitive but only embarrassing. And Presidents, if they believe that the nation and its elective representatives can be trusted to make wise decisions once fully informed, must be willing to subject their authority to certain checks. For unless the presidential power is subject to close scrutiny by the Congress, the people's voice, then the individual citizen is robbed of his right to join in the governing of his government.

If the presidential power to decide what information should be kept secret and what should be released can be curbed, should restraints be imposed on the private citizen who also possesses information affecting the public interest? What about Daniel Ellsberg, the key figure in the *Pentagon Papers* case, who leaked the Pentagon report to the press? Does he, or any other private individual have the right to decide on his own

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said that the recommendation may extend to library collections, if the only criterion for a book's retention is "that it had nothing in it that was offensive to any reader." Though the board has not yet acted on the panel's recommendation, it agreed that it requires delicate handling. Reported in: *Seattle Times*, November 21.

## ROCKY MOUNTAIN STATES (B)

### Denver, Colo.

A suggestion that so-called "revolutionary" books in the Denver Public Library be investigated by city councilmen was referred to the council's Cultural Committee after a 70-minute debate. Three citizens, two of them non-Denver residents, protested the library's holdings of "anti-American books promoting riot and revolution." When asked if he wanted his children to read some of these books, Councilman Irving Hook replied, "What I want my children to read is not important. What is important is that nobody tells my children what not to read." One Cultural Committee member announced that the committee will not make any "effort to determine which books go into the library. They have people over there to do that." Reported in: *Rocky Mountain News*, November 14.

## MIDWESTERN STATES (D)

### Chicago, Ill.

Juan Garcia Passalacqua, producer and occasional moderator of the WAPA-TV (Channel 4) panel discussion program *Cara a Cara ante el Pais*, refused to allow the November 7 program's airing because of alleged station censorship. Garcia Passalacqua said the station created a board of censors while he was on a trip to Latin America. His panel program features representatives of political parties who discuss a different topic each week. Reported in: *Chicago Today*, November 7.

### Indianapolis, Ind.

Over 500 Indianapolis citizens, led by Dr. Greg Dixon, pastor of the Indianapolis Baptist Temple, appeared before the City Council pressuring for a city ordinance against the sale of pornography. The *Indianapolis Star and News* supported the anti-smut campaign by not accepting advertising for X-rated motion pictures. The group's efforts were claimed successful after "many art theaters and shops [were] forced to leave the city." Reported in: *Christian Crusade Weekly*, December 5.

### Shawnee Mission, Kan.

After receiving a three-page letter complaining about the use of *Catcher in the Rye* as a supplement to a

sophomore literature class, the Shawnee Mission Advisory Board voted unanimously to recommend to the school board to remove the book from the district's approved reading list. One advisory board member said the book must be eliminated because it has widened the generation gap and confused moral values within families. The complaint from an unidentified source said the book contains 860 obscenities. Reported in: *Kansas City Times*, January 18.

### Detroit, Mich.

Lakeshore High School Principal Jon Schuster barred Peter Graber, an honor student, from attending all future home basketball games because Graber did not stand during the playing of the "Star Spangled Banner" at a recent home game. Graber, a Mennonite and a pacifist, said, "Some of the words in the national anthem are quite militaristic. But it's not just words—it's the spirit of the thing—rockets and bombs bursting in air." Schuster said, "In my judgment [Graber's] choosing to remain seated . . . could inflame the passions of either adults or . . . fellow students." The Grabers contacted the ACLU. Reported in: *Detroit Free Press*, January 8.

### Athens, Ohio

The Student Activities Board (SAB) at Ohio University may precensor the student newspaper to prevent censorship by the state legislature. The threat from the SAB came after an October *Post* story included critical comments about the current Miss America (formerly Miss Ohio), who once attended the university. The Board, which controls the student activities fund, ordered a study of the newspaper's policies. Reported in: *Columbus Dispatch*, November 12.

### Dayton, Ohio

A University of Dayton student reporter was prohibited from accompanying county food inspectors on a tour of the university's food service facilities. The inspection was arranged after four students complained to the *Daily News* of unsanitary conditions. The university's assistant business manager, Robert Rotterman, said "It would be unfair to the university and the Health Department," and yellow journalism if the reporter witnessed the inspection. A *Flyer News* editorial said the cafeteria was filthy, overcrowded, and served fatty food. Reported in: *Dayton Daily News*, November 17.

### Reynoldsburg, Ohio

Reynoldsburg High School Principal John Endry refused to release the latest issue of the student newspaper, *The Dubloon*, because it criticized the football team and him. The board of education voted unanimously to uphold Endry's decision and agreed that the paper cast "aspersions" on the character of individuals. Benson Wolman, executive director of the Ohio American Civil

Liberties Union, appeared before the board to argue for distribution of the school paper. The student council voted overwhelmingly to ask for distribution of the paper, and to support the ACLU protest against suppression. The issue in question was withheld from publication and destroyed. Reported in: *Columbus Citizen Journal*, November 26; December 15.

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

Jesse White, an inmate at the State Prison at Waupun, filed suit in U. S. District Court charging that prison officials denied him his constitutional rights in refusing to permit him access to magazines of his choice. White, transferred to the Green Bay Reformatory in March 1971 and recently returned to Waupun, was refused access by Green Bay officials to *Black Panther*, (Milwaukee) *Kaleidoscope*, *Evergreen* and *Ramparts*. In response to a complaint by White in August, the Division of Corrections said it would approve *Ramparts*, but would not permit the other requested magazines. According to prison authorities, *Black Panther* and *Kaleidoscope* are categorized by the Division's *Manual of Procedures* as "subversive of internal discipline," while *Evergreen* is material "designed primarily to arouse sexual desires." No date has been set for a hearing of the suit, which seeks a court ruling that censorship of inmate reading material is unconstitutional. Reported in: *Milwaukee Courier*, December 4.

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

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

The *Arkansas Democrat* is denied access to police news until the newspaper apologizes for a recent article and editorial. Police Chief Gale F. Weeks, who issued the order to the department's public information office, said that when reporter Bill Husted attempted to interview him in November concerning the accessibility of small handguns, Husted was told the question required research. But, Husted commented in his story that Weeks "couldn't concern himself with minor stories." Reacting to what Weeks terms a "calculated attempt to embarrass me" and the department, the *Democrat* is permitted to inspect only the arrest docket, and not to receive further information regarding crimes. Since Weeks became Police Chief, reporters have been denied access to crime reports and receive minimal information from the public relations office. Reported in: *Arkansas Democrat*, November 7.

#### **Lauderhill, Fla.**

Saying he never wanted to show the skin film *Ginger* in the first place, Peter Graybill, manager of Loew's Theater, replaced the billing with two GP-rated films. Cancellation of the showing followed residents' complaints to the Mayor and other city officials, and a sub-

sequent police request for a special viewing of the film for purposes of seeking an injunction against the theater. Reported in: *Ft. Lauderdale News*, December 6.

#### **Annandale, Va.**

Dean Robert E. Smith of Northern Virginia Community College declared that he will have periodic chats with student newspaper editor Mark Crawford about what constitutes "good taste." The November issue of *The Parthian Shot* featured a photograph of two nude women holding hands. Accompanying the photograph was an interview with a lesbian coed headlined "Sweeties Infest Central Campus." Smith said he does not believe in censorship but intends to keep a close watch on future issues. The paper's faculty adviser, however, said he has no intention of censoring the publication. Reported in: *Washington Star*, December 1.

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

Charging that recent issues of *Playboy* have "gone beyond the bounds of what many consider proper," Rear Admiral Ross P. Bullard cancelled all government-purchased subscriptions to the magazine in the 5th Coast Guard District. "The question is not whether the Coast Guard is censoring reading material of its men," he said. "The only question is whether appropriated government funds should be used to purchase *Playboy*." Reported in: *New York Post*, January 4.

#### **Petersburg, Va.**

Filimon D. Kowtoniuk, a foreign languages professor with acknowledged right-wing views, was dismissed from Virginia State College after a faculty committee found him guilty of "unprofessional conduct." Kowtoniuk, an anti-Communist Ukrainian refugee, was denied 1970-71 contract renewal on grounds that he did not furnish proof of his Ph.D. Following a September 1970 injunction barring withdrawal of his contract, the charges were dropped. A faculty hearing last April, however, found him guilty of "unprofessional conduct" related to his defense of his contract and tenure. Although the formal charges do not refer to his political views, Kowtoniuk vigorously protested faculty-student demonstrations against the Vietnam War and Kent State killings. Dr. Kowtoniuk continues to draw his teaching salary and is still negotiating reinstatement. Reported in: *New York Times*, December 12.

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

#### **Conway, N.H.**

The school board denied a request by parents of a high school student that two teachers be disciplined for assigning an "obscene" book as an English class reading requirement. Prior to their request for punitive action, Mr. and Mrs. Harold Wentworth complained to school

authorities that *The New Underground Theater*, a collection of plays written by playwrights of the "new consciousness," was objectionable because of its "filth and pornographic structure." In October the Wentworths were told that the title had been withdrawn and destroyed, and that their daughter had been assigned to another English class. Superintendent David Appleton noted that the board regrets the book was ever purchased, and in the future, department heads will be required to "read all books" assigned to students. Reported in: *Manchester Union-Leader*, November 19.

#### **Falls, N.J.**

A new adult bookstore came under fire from mothers and officials for selling pornographic materials and showing mini-movies in the back room. Township officials C. Pete Mullaney and Charles Chimers hope to close the store because of several violations, among them zoning, fire, and building ordinances, showing movies without a license, and corrupting children's morals. One woman picketing the store declared, "I don't care what the Constitution says, it's my opinion that this is wrong." Reported in: *Trentonian*, November 18.

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

The state division of Alcoholic Beverage Control says paintings of mythological figures at the Greek Restaurant in Hasbrouck Heights are obscene. It has ordered the management to remove the art or face legal action. Georgev Georgiadis, the owner, argues that the hand-painted murals are reproductions of great works of art and that the state law is antiquated. The law says that the holder of a liquor license cannot display any obscene, indecent, filthy, lewd, lascivious, or disgusting pictures. An ABC Division spokesman said the statute is interpreted to mean no nudes or semi-nudes. Georgiadis said he commissioned a Wayne student to do the painting of subjects from art and mythology books. For example, a figure of Dionysus was copied from a Michelangelo. Reported in: *Hackensack Record*, December 30.

#### **Amityville, N.Y.**

Complaints to Mayor Humbert Martin opposing a Christmas holiday showing of *Carnal Knowledge* in the local theater resulted in a rescheduling of the film. Noting that some people thought the title on the marquee was in bad taste, Mayor Martin said the theater operators agreed to change the holiday bill to two Walt Disney films. Reported in: *New York Times*, December 25.

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

The Rizzoli International Bookstore withdrew from sale a pirated German-language edition of Aleksander Solzhenitsyn's new novel, *August 1914*. Solzhenitsyn, who won the 1970 Nobel Prize for literature, has re-

published the translation published by a Munich firm. The Rizzoli decision came shortly after Roger W. Straus, Jr., president of Farrar, Straus & Giroux, who acquired American rights to the novel, protested the illegality of the edition and requested Rizzoli's manager to withdraw the books from sale. Reported in: *New York Times*, December 7.

#### **Philadelphia, Pa.**

Archibald Johnson, head of the Penn Central Railroad, banned the book *The Wreck of the Penn Central* from the annual stockholders' meeting place. Bookseller Tom Emmons, who thought the railroad's stockholders should read the book, planned to set up a table at the hotel. Reported in: *Philadelphia Bulletin*, November 30.

#### **Philadelphia, Pa.**

Opposing the showing of X-rated movies at the Adult Theater, the Community Mothers Association said they will turn to blackmail if their picketing is unsuccessful. During a December 9 meeting, Mrs. Loretta Lucas, spokesman for the area civic group, said they will blackmail patrons of the theater by recording license plate numbers and mailing notices and photos to their homes. "It's blackmail, but we're playing for keeps. The futures of our children are at stake," she said. Among the residents unconcerned about the theater is Benson Perry, who remarked that "some people have an irrepressible desire to mind other people's business." Reported in: *Philadelphia Tribune*, December 11.

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

Publication of the South Kingston High School student newspaper, *Rebel*, was temporarily suspended by Principal Irving Wardle pending reestablishment of a faculty review board to oversee the paper. Wardle objected to a collection of graffiti written by American soldiers in Vietnam, which was copied from an article in *Playboy*. Co-editor Brad Jones considered the recent issue's article in good taste and stated that he was "just bringing opinions to the students." Reported in: *Providence Journal*, November 20.

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"It is a truism to say that librarians have a special stake in the cause of freedom of speech. It is only a small step from preventing a speaker from being heard to asking that his book or periodical article be removed from the university, school, or public library, or perhaps threatening a publishing firm for printing the material." — Dr. Frederick Wezeman, Director, University of Iowa School of Library Science. Quoted in *The Spectator*, October, 1971.

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## Midwinter . . . (from page 37)

partisan or doctrinal disapproval." A position paper will be issued bringing together the pertinent policies for the Committee's approval as an "*Interpretation of the Library Bill of Rights.*"

### Weeding of Collections

Use of the traditional "weeding" process as a tool for removing controversial materials was discussed as an adjunct to the question of reevaluating allegedly racist books. The IFC agreed to include its opposition to such masks for censorship in its position statement on removal and non-selection of such materials.

### Committees to Review Complaints

Because the Office for Intellectual Freedom receives many inquiries concerning the advisability of establishing ad hoc or standing committees to review complaints about library materials, the IFC reviewed the role of such committees. It concluded that complaint review committees are too easily used as vehicles to effect the removal of challenged materials and are contrary to ALA policies on the handling of complaints. (See *How Libraries Can Resist Censorship*, pages 49-50.)

### Government Documents

The IFC continued a discussion which began in Los Angeles (Midwinter, 1971) concerning intellectual freedom problems involved in the recall of government publications by the U. S. Superintendent of Documents. Preliminary exploration indicated that the problems of access to information relating to original distribution, recall, and continuing government ownership of materials in depository libraries are too complex for the Committee to act upon without careful study. The IFC plans to consult with the new Round Table on Government Documents, the Committee on Legislation and the RTSD/RSD Committee on Public Documents before taking further action.

### 1972 J. Morris Jones-World Book Encyclopedia-ALA Goals Award

Believing that one main goal for the IFC and OIF is still educating librarians and the general public in the importance of intellectual freedom in libraries, the IFC is resubmitting a proposal for a regional intellectual freedom workshop in an approximately \$15,000 J. Morris Jones-World Book Encyclopedia-ALA Goals Award application.

The proposal is for a prototype workshop to be conducted in one region. All state intellectual freedom committee members in the region chosen would attend the workshop, thus acquiring the necessary background to conduct similar workshops at the state and local levels.

Two other proposals for the 1972 Award were also approved by the IFC. The second asks that the \$24,000 available from the Award, or any portion of it, be given to the Freedom to Read Foundation. The Foundation won a portion of the 1971 Award.

The third proposal calls for the development of a collection of case law, legal briefs, analyses of statutes, etc., related to potential censorship activities. Such a collection presently does not exist. If available, it would be invaluable for the OIF and the Freedom to Read Foundation when dealing with possible legal actions involving intellectual freedom principles. The proposal calls for a project director with a law background to collect, organize, and annotate the collection.

### FBI Agents At Beacon Press

In response to a letter received by the OIF from an officer of Beacon Press, the IFC discussed the federal investigation of financial records of the Beacon Press and its owners, the Unitarian-Universalist Association. The investigation occurred after Beacon Press decided to publish the text of the *Pentagon Papers* last fall. The IFC recommended, and Council approved, a resolution concerning Beacon Press's situation, stating: "Resolved that The American Library Association reaffirm the right of a free press in a democratic society, a freedom which cannot be challenged by a vigilante action of the government, and that our reaffirmation of that right be submitted to the officers of Beacon Press and its owners, the Unitarian-Universalist Association, and that this action be reported to the U. S. Attorney General and to the news media."

### Commission on Obscenity and Pornography Technical Reports

The IFC was urged last year to take a position regarding the recommendation of the Commission on Obscenity and Pornography. The OIF having now received eight of the ten anticipated volumes of the *COP Technical Reports*, IFC members volunteered to take one volume apiece, read it, and prepare a summary, with recommendations concerning the studies and conclusions. The papers will be examined by the Committee at the 1972 Annual Conference.

### Freedom to Read Statement Revision

At a joint meeting with the American Association of Publishers Freedom to Read Committee, the IFC approved a revised version of the *Freedom to Read Statement*. The revision, to be issued in conjunction with International Book Year, excludes several references to "obscenity." The new statement, as approved by Council on January 28, 1972, appears in the March issue of *American Libraries*.

## Viewpoint . . . (from page 38)

what is sensitive or not sensitive information, to violate the law on release of government documents? This is not a matter of constitutional authority or legislative need. His dilemma, of course, is a much deeper one, a striking example of the main moral contest of the 60's, the pitting of individual conscience against the power of the state. Ellsberg's statements as to why he committed his particular form of civil disobedience show the depth of his moral outrage at the continuation of the Vietnam War. His disclosure was not designed to achieve financial gain or personal political advantage. It was rooted in an inner belief that impelled him to give personal witness to his convictions about the madness of this war.

The use of non-violent civil disobedience has an honorable tradition in our country, and Martin Luther King showed how such disobedience could be used as a political weapon. We can respect Daniel Ellsberg for utilizing a tactic that he felt was the only way he could act to express his dissent, his protest against this war. But as much as we applaud his courage and respect his conscience, the nagging question still remains: Should he be exonerated from breaking the criminal law?

There is a body of opinion which says yes, that the citizen's higher responsibility to his conscience should not be subject to punishment by the state. Yet another body of opinion argues no. They say that a democratic society, despite its imperfections, rests on the rule of law and belief in law to effect change. This camp holds that theft of government information is still a crime and if people are to be freed of their responsibility to live within the law, the seeds of chaos will be planted. They would apply the law equally to a Daniel Ellsberg and to an Otto Otepka, who pilfered papers for an anti-Communist Senate Committee during the McCarthy heyday of the 50's. For the civil libertarian committed to personal freedom, this is not an easy choice to make. But freedom without law is not true freedom. Martin Luther King understood the importance of respect for

**"remember that you  
are a free citizen."**

law, even as he undertook civil disobedience. He believed that by suffering the jail penalties that the law imposed, he was showing the law's imperfections and the need to change it. If the individual feels that he must take government records in order to serve his conscience, then the honorable course set down by King seems best, at least to this commentator. What do you think?

This review of how governmental power can be used to limit information that the public needs may leave one in a state of shock or dismay. As is true of so many questions today involving the gigantic size of

government, you may be impelled to ask: What can one individual do to stem the tide of government secrecy?

I have no sure-fire formula for success, but I do have several suggestions which I commend for your consideration.

The first is to remember that you are a free citizen. It is your right to comment on or to protest against the policy of government secrecy. No one can take away your right of peaceful expression of views, whether you write a letter to your newspaper, sign an advertisement, make a speech, or join in a demonstration.

The second is to remain constantly alert to the danger of secrecy. When you believe there is a credibility gap, exercise your right to demand the information: from your congressman, your library, your newspaper or radio-TV station. If the information is locked in the files of a government agency, make use of the federal

**"You are not alone . . ."**

Freedom of Information Act. That law says that, with the exception of certain very narrow exceptions, the agency must give up the material. If the agency refuses, seek the relief in the federal courts that the law provides.

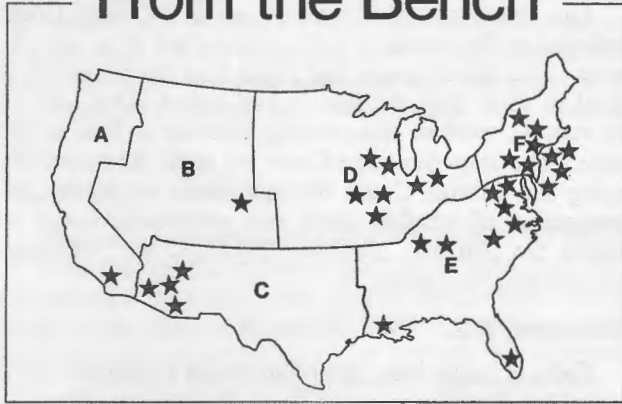
And third, remember you are not alone in fighting this issue. The press itself, no matter how you view their performance generally, has an obvious self-interest to protect. Organizations, like the Civil Liberties Union, are concerned that constitutional guarantees be preserved. Publishers, librarians, teachers, all those who are involved in the pursuit of learning and knowledge, are dedicated to maintaining intellectual freedom and are good allies.

But all of these practical suggestions to combat secrecy will be meaningless unless we affirmatively answer this central question: How much do we really want access to information, so we can think through the vast social problems that plague us, to consider the facts, to try to create solutions? How much do we value freedom, and accept the responsibility to act as concerned citizens to make the democratic ideal really work. Do we want to retreat from responsibility and turn the running of the government over to a leadership class, a kind of technical elite? The complexity of today's problems have worn people to a frazzle, as the polls repeatedly show, and perhaps the drive for inner contemplation of self and identity is the end product of public frustration.

So, the struggle for freedom of information is really the struggle for freedom itself, including the assuming of obligations that true freedom imposes — the constant making of choices. The struggle against government censorship, as the *Pentagon Papers* case illustrates, is the struggle for the whole idea of a democratic society. I choose to think this idea is worthwhile, and to fight for it. I hope your choice is the same.



## From the Bench



### PACIFIC COAST STATES (A)

#### San Diego, Cal.

After being convicted by a jury of *conspiring* to show obscene films in his downtown theater, Don Weiner was fined \$4,000. An employee, Anthony Menna, was placed on two years probation for the same offense. A retrial was denied by Superior Court Judge Robert Conyers. Reported in: *San Jose News*, December 11.

### ROCKY MOUNTAIN STATES (B)

#### Denver, Colo.

Obscenity charges against Donald L. Harvey, a magazine store operator, were dismissed in Denver County Court after the Colorado Supreme Court ruled that police cannot seize allegedly obscene materials until after an adversary hearing to determine if the material is obscene. Harvey, whose stores were raided in 1968, was charged with "promoting obscenity." Reported in: *Denver Post*, December 18.

### SOUTHWESTERN STATES (C)

#### Phoenix, Ariz.

The state Court of Appeals, ruling on a special action writ, declared that criminal charges may not be brought against theater owners who are compelled through civil suit to bring allegedly obscene films to court for viewing. Attorney for William Anderson, a theater owner, argued that his client was forced to incriminate himself in producing the allegedly obscene film for review. The Court of Appeals ruled that Anderson was compelled under civil suit to bring the film to court, but that no criminal charges could be filed even if the movie was declared obscene. Reported in: *Phoenix Gazette*, November 17.

#### Phoenix, Ariz.

Superior Court Judge Howard V. Peterson, ruling in a case against the operator of the Empress Theater, said that films may be seized under a valid search warrant where there is probable cause to believe the film is obscene under state criminal statutes. Attorneys for the theater owner contended unsuccessfully that a prior adversary hearing must be conducted before barring the display of an allegedly obscene movie. Reported in: *Phoenix Gazette*, December 3.

#### Phoenix, Ariz.

City Magistrate James Smith refused a motion by an attorney, Richard Hertzberg, to declare unconstitutional a state statute making it a public nuisance to sell obscene items within 4,000 feet of a public or private school. Hertzberg charged that the statute violates provisions of the First and Fourteenth Amendments by making the dissemination of non-obscene materials a crime. Reported in: *Phoenix Gazette*, December 21.

#### Tucson, Ariz.

Superior Court Judge John Collins ordered the reinstatement of a high school teacher, Mrs. Ann Stewart, who had been fired for, among other things, "teaching about witchcraft in such a way that it affects students psychologically." Supposedly, she stated in class that she was a witch. But, Mrs. Stewart denied saying such a thing. She said she told her students she has the "physical characteristics of a witch." The decision for reinstatement was based on the school board's failure to provide proper notification and to institute a hearing date. Reported in: *New York Times*, December 5.

### MIDWESTERN STATES (D)

#### Springfield, Ill.

Chief Circuit Judge William Chamberlain ruled that the movie *Senta*, shown at the Cinema Art Theater, is obscene. In so ruling, Chamberlain paraphrased U. S. Supreme Court Justice Potter Stewart: "I shall not today attempt further to define the kinds of material I understand to be hard-core pornography, and perhaps I could never succeed in intelligibly doing so. But I know it when I see it." [Justice Stewart, in his concurring opinion in the movie film case of *Jacobellis vs. Ohio*, actually said: "I have reached the conclusion, which I think is confirmed at least by negative implication in the court's decisions since *Roth* and *Alberts*, that under the First and Fourteenth Amendments criminal laws in this area are constitutionally limited to hard-core pornography. I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligibly doing so. But I know it when I

see it, and the motion picture involved in this case is not that." (Our emphasis. Eds.)] The decision opened the way for proceedings against Ladd Nelson, operator of the East Washington Street Theater. Reported in: *Springfield Register*, December 15.

#### **St. Louis, Mo.**

Circuit Court Judge George W. Lloyd issued a temporary injunction allowing teachers in the Hazelwood School District to receive *The Catalyst*, the newspaper of the Hazelwood Community Teachers Association, in their school mail boxes without prior approval by school administrators. The suit was filed by three teachers on behalf of all others in the district. Reported in: *St. Louis Post-Dispatch*, December 5.

#### **St. Louis, Mo.**

The U. S. 8th Circuit Court of Appeals upheld the suspension of 29 black students who walked out of a pep rally at Jonesboro, Ark., High School in 1968 because the song "Dixie" was played. The court held that the constitutional rights of the pupils were not violated by the suspension. Referring to the history of the song, the court said in a unanimous decision, "We cannot say that the tune 'Dixie' constitutes a badge of slavery or that the playing of the tune under the facts as presented constitute officially sanctioned racial abuse. Such a ruling would lead to the prohibition of the playing of our most famous tunes." The court also said, "We note that the tune is not shown to be offensive to all blacks, even at Jonesboro High School." Reported in: *Philadelphia Enquirer*, January 13.

#### **Columbus, Ohio**

U. S. District Court Judge Joseph P. Kinneary refused injunctions which would have barred further arrests of adult bookstore operators on obscenity charges. Judge Kinneary said bookstore operators cannot be granted relief in federal court unless "irreparable injury" will result otherwise. He cited February 1971 U. S. Supreme Court decisions as the basis for his judgment. Reported in: *Columbus Citizen Journal*, November 22.

#### **Columbus, Ohio**

A three-judge federal panel composed of Judges Joseph P. Kinneary, Carl B. Rubin, and John W. Peck, ruling in an appeal of a 1969 obscenity decision, declared that the Ohio Department of Liquor Control may not confiscate allegedly "obscene" materials from permit holders' stores unless a court has already decided the materials are obscene. The panel issued sharp rebukes to the state agency saying that the procedures used reminded them of a quote from *Alice in Wonderland*: "I'll be judge, I'll be jury, said cunning old Fury; I'll try the whole case and condemn you to death." Reported in: *Columbus Citizen Journal*, December 8.

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

The state Supreme Court set aside a Circuit Court finding that the movie *I a Woman—Part II* is not obscene. The circuit court had ruled that the prosecution failed to show that the film lacked social value, one of the criteria used in determining whether a film is obscene. The state Supreme Court set aside that opinion, saying the Circuit Court did not make an initial determination of whether there was *reasonable cause* to believe the film was obscene. Reported in: *Milwaukee Journal*, November 30.

#### **Milwaukee, Wis.**

Federal Judge John Reynolds heard arguments for a temporary restraining order from Racine and Kenosha "go-go" tavern operators asking that obscenity statutes not be enforced against them. The action asked that such statutes be declared unconstitutional. Judge Reynolds refused the order, saying that the taverns made no showing of reasonable probability of success in their efforts to get the law declared unconstitutional and showed no irreparable harm resulting from enforcement. Reported in: *Racine Journal-Times*, November 30.

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

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

U. S. District Judge Barrington D. Parker declared unconstitutional the denial of a request from local peace groups to display Vietnam atrocity photos in the crypt of the U. S. Capitol. The display was requested as a response to an exhibit place there two years ago by Texas oil millionaire H. Ross Perot. Judge Parker said, in effect, capitol officials must either allow the display or declare that *no* displays will be permitted. Reported in: *Washington Post*, December 9.

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

U. S. Court of Appeals Judges J. Skelly Wright, Harold Leventhal and Roger Robb, with Judge Robb dissenting, ruled that Women Strike for Peace may erect an anti-war display in an area, known as the Ellipse, adjacent to one used by the Christmas Pageant for Peace, Inc., despite an Interior Department ruling to the contrary. This is the fourth year the women's group has gone to court on the question. Christmas Pageant for Peace, Inc., on the other hand, has received Interior Department permission to put up displays for the past seventeen years. Reported in: *Washington Post*, December 11.

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

The D. C. Court of Appeals overturned a lower court ruling and reinstated charges against twenty-three persons accused of selling obscene publications, films, and other materials. The charges had been dismissed in

Superior Court on the grounds that no adversary hearings had been held to determine the question of obscenity. The Court of Appeals ruled, however, that adversary hearings are not necessary when police officers *purchase* allegedly obscene materials for the purpose of prosecuting. Reported in: *Washington Post*, December 21.

#### **Miami, Fla.**

The state Supreme Court declined to hear the appeal of Peter Mitrovich, a Miami bookseller convicted on a policeman's testimony that certain magazines, confiscated from Mitrovich's store, showed persons "in an unnatural act or getting ready to perform an unnatural act." Reported in: *Miami Herald*, November 24.

#### **New Orleans, La.**

Ruling in favor of William Groner of Lucky Distributors, the Fifth U. S. Circuit Court of Appeals said the question of what is and what is not obscene should be determined by juries who have heard expert testimony on obscenity. The court said it, itself, was not qualified to judge obscenity. The ruling apparently means the Fifth Circuit will require the government to furnish obscenity experts in trials conducted within its jurisdiction. Groner, a Dallas book dealer, was charged with interstate transportation of obscene books. The Appeals court granted him a new trial so expert testimony could establish whether or not the books were obscene. Reported in: *Washington Post*, January 12.

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

Northern District Court Judge Aaron A. Baer acquitted four persons (including the local director of the American Civil Liberties Union) of disorderly conduct charges in a test of police powers to break up lawful assemblies on sidewalks. The four were arrested for refusing to follow a policeman's order to "move on" when they were gathered with others on a public sidewalk. In acquitting the four, Judge Baer said he hoped his decision would not be misinterpreted or serve as "an invitation to those who might seek to make trouble." Reported in: *Baltimore Sun*, December 16.

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

U. S. District Court Judge James B. McMillan ordered the city's building inspection department to reinstate Harold Murry, fired in August because of his position in the Ku Klux Klan. In making his ruling, Judge McMillan stated that constitutional free speech guarantees to "prevent public authorities from discharging public employees merely because of views and associations not approved by the temporary bearer of the supervisory duty." Ironically, a week before McMillan's decision, Chief District Court Judge William H. Abernathy fired Rudolph Turbeville, a juvenile court counselor whose outside activities allegedly interfered with

his professional assignment. Although Turbeville has been active in the "Free Angela Davis" movement and in protests against the Charlotte-Mecklenburg Board of Education, Judge Abernathy has yet to offer evidence of the alleged conflict. A suit against the dismissal has been filed in Turbeville's behalf. Reported in: *Charlotte Observer*, December 6.

#### **Durham, N.C.**

Judge Eugene Gordon denied a request by student leaders for a temporary restraining order to block North Carolina Central University's efforts to cut off funds for the campus newspaper. University President Albert Whiting halted funds to *The Campus Echo* after the first fall issue because of the newspaper's policy not to accept advertising from white businesses that were not equal opportunity employers, and described the policy as "espousing racially discriminatory sentiments." The student group sought restoration of the funds on the grounds that the cut-off violated their rights of free press and free speech. Reported in: *North Carolina Anvil*, December 4.

#### **Chattanooga, Tenn.**

Chancellor Ray Brock, Jr., declared obscene the movies *Old Miss Bodie*, *Mad Loves of a Hot Vampire*, and *Teacher's Pet*, thus opening the way for prosecution of the co-owners of Cinema I and Cinema II. Brock made his decision after hearing testimony from police officers about sexual activity depicted in the films. Defense attorney Jerry Summers argued unsuccessfully that the court could not declare the movies obscene without viewing them. Reported in: *Chattanooga Times*, December 12.

#### **Nashville, Tenn.**

Attorneys for Johnny Cash and his wife, June Carter, were granted a temporary restraining order to prevent the publication or use of a manuscript prepared by Patricia M. Holt, who decorated Cash's suburban mansion. The action filed by Cash's attorney alleges that the information in the 50-page book is "personal and confidential" and was obtained while Mrs. Holt was employed by the Cash family in a professional capacity. Reported in: *Washington Star*, January 27.

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

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

Superior Court Judge Erwin S. Furlop ruled that allegedly obscene materials may not be seized in general warrants. However, he allowed presentation of a small quantity of books purchased from the Meg Camera Store, whose owner was a defendant in the case. Judge Furlop said that "due process" must be granted "to even the most obvious wrongdoers" and that "the

seizure of such materials before adjudication upon the basis of judgement of the police officers that they were obscene is a violation of the constitutional provisions" of due process. Reported in: *Newark Star-Ledger*, December 10.

#### Newark, N.J.

The Superior Court Appellate Division upheld convictions of three Essex County theater managers for showing an obscene film (*Censorship in Denmark*). The appeals were based on the grounds that seizures of copies of the film were illegal. The court said, however, that law officers can seize allegedly obscene material before obscenity has been proven because the defendants may still show other copies of the film in their theaters. Reported in: *Newark Star-Ledger*, December 11.

#### Albany, N.Y.

In a 5-to-2 vote, the state Court of Appeals upheld the conviction of Saul Heller, a theater manager, and declared that Andy Warhol's *Blue Movie* is "simple pornography" and legally obscene. Reported in: *New York Times*, December 2.

#### New York, N.Y.

The Second U.S. Court of Appeals upheld a lower court ruling denying a request for an injunction from Philip and Daniel Berrigan. The two anti-war priests sued to be allowed to send uncensored communications from their federal prisons. Reported in: *New York Post*, November 27.

#### New York, N.Y.

The Appellate Division reversed a Richmond County Court decision and directed presidents of two City University colleges not to interfere with publication of articles in student papers at Staten Island Community College and Richmond College. Two articles were complained about, one an attack on the Catholic church and the other an attack on Christianity in general. Reported in: *New York Times*, December 5.

#### New York, N.Y.

State Supreme Court Justice Samuel N. Gold rescinded his own previous order barring the *Ladies' Home Journal* from publishing purported interviews with Howard Hughes. Only the night before, Gold had issued a temporary restraining order against the magazine. In reversing himself, he said, "I'm satisfied that the stay granted by me represents unconstitutional prior restraint and that in the interest of justice I should vacate it, which I am hereby doing." The interviews are excerpts from *My Life and Opinions*, a book by Robert P. Eaton, which is purportedly based on interviews with Hughes. Reported in: *New York Times*, January 16.

#### New York, N.Y.

The Court of Appeals for the Second Circuit reversed a 1971 decision of a three-judge panel and upheld an initial Federal District Court ruling that a prisoner may write what he likes in his diary. Upheld also was the principle that a prisoner punished in a way that he feels violates his constitutional rights has the same legal remedy as any other citizen. The ruling came in a case involving Michael Katzoff, an Auburn state prison inmate, who was punished for writing in his diary that the warden was a "creep" and a "cigar-smoking son of a bitch." Reported in: *New York Times*, January 26.

#### New York, N.Y.

State Supreme Court Justice Harold Birns rejected an attempt by *The Village Voice* to quash a subpoena directing the paper to turn over the original manuscript of an article written by an inmate of the Manhattan House of Detention (called "The Tombs.") The prosecution wants the original manuscript because it could be "far better evidence" against the assumed author, Ricardo de Leon, than the published article. De Leon allegedly played a role in the 1970 riots at the prison. Justice Birns said reporters may claim their privilege to withhold information gained on the job, or the sources of that information, only when it is obtained "under the cloak of confidentiality." Since the article was published under de Leon's byline, the court held that no such "cloak of confidentiality" exists. Reported in: *New York Times*, January 28.

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"If, however, government must proceed against an illegal publication in a prosecution, then the advantages are on the other side. All the protections of the Bill of Rights come into play. The presumption of innocence, the right to jury trial, proof of guilt beyond a reasonable doubt — these become barriers in the path of officials who want to impose their standard of morality on the author or producer. The advantage a censor enjoys while working as a supreme bureaucracy disappears . . . the First Amendment was designed to enlarge, not to limit, freedom in literature and in arts as well as in politics, economics, law, and other fields . . . Its aim was to unlock all ideas for argument, debate and dissemination. No more potent force in defeat of that freedom could be designed than censorship. It is a weapon that no minority or majority group, acting through government, should be allowed to wield over any of us." — *Times Film Corp. vs. Chicago*, 365 U. S. 43 (1961) Dissenting opinion by Justice William O. Douglas.

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# What To Do Before The Censor Comes—And After

## How Libraries Can Resist Censorship

Libraries of all sizes and types continue to be targets of pressure from groups and individuals who wish to use the library as an instrument of their own tastes and views. The problem differs somewhat between the public library, with a responsibility to present as wide a spectrum of materials as its budget can afford, and the school or academic library, whose collection is designed to support the educational objectives of the institution. Both, however, involve the freedom of the library to meet its professional responsibilities to the whole community.

To combat censorship efforts from groups and individuals, every library should take certain measures to clarify policies and establish community relations. While these steps should be taken regardless of any attack or prospect of attack, they will provide a firm and clearly defined position if selection policies are challenged. As normal operating procedure, each library should:

1. *Maintain a definite materials selection policy.* It should be in written form and approved by the board of trustees, the school board or other administrative authority. It should apply to all library materials equally.

2. *Maintain a clearly defined method for handling complaints.* Basic requirements should be that the complaint be filed in writing and the complainant be properly identified before his request is considered. Action should be deferred until full consideration by appropriate administrative authority. [Upon request, the Office for Intellectual Freedom will provide a sample comment form adapted from one recommended by the National Council of Teachers of English.]

3. *Maintain lines of communication with civic, religious, educational and political bodies in the community.* Participation in local civic organizations and in community affairs is desirable. Because the library and the school are key centers of the community, the librarian should be known publicly as a community leader.

4. *Maintain a vigorous public relations program on behalf of intellectual freedom.* Newspapers, radio and television should be informed of policies governing materials selection and use, and of any special activities pertaining to intellectual freedom.

Adherence to the practices listed above will not preclude confrontations with pressure groups or individuals but may provide a base from which to counter efforts to place restraints on the library. If a confrontation does occur, librarians should remember the following:

1. Remain calm. Don't confuse noise with substance. Require the deliberate handling of the complaint under previously established rules. Treat the group or individual who complains with dignity, courtesy and good humor. Given the facts, most citizens will support the responsible exercise of professional freedom by teachers and librarians and will insist on protecting their own freedom to read.

2. Take immediate steps to assure that the full facts surrounding a complaint are known to the administration. The school librarian should go through the principal to the superintendent and the school board; the public librarian, to the board of trustees or to the appropriate community administration official; the college or university librarian, to the president and through him to the board of trustees. Present full, written information giving the nature of the complaint and identifying the source.

3. Seek the support of the local press when appropriate. The freedom to read and freedom of the press go hand in hand.

4. Inform local civic organizations of the facts and enlist their support when appropriate. Meet negative pressure with positive pressure.

5. In most cases, defend the *principle* of the freedom to read and the professional responsibility of teachers and librarians. Only rarely is it necessary to defend the individual item. Laws governing obscenity, subversive material and other questionable matter are subject to interpretation by courts. Responsibility for removal of any library materials from public access rests with this established process.

6. Inform the ALA Office for Intellectual Freedom and other appropriate national and state organizations concerned with intellectual freedom of the nature of the problem. Even though censorship must be fought at the local level, there is value in the support and assistance of agencies outside the area which have no personal involvement. They can often cite parallel cases and suggest methods of meeting an attack.

The principles and procedures discussed above apply to all kinds of censorship attacks and are supported by such groups as the National Education Association, the American Civil Liberties Union, and the National Council of Teachers of English, as well as the American Library Association. While the practices provide positive means for preparing for and meeting pressure group

complaints, they serve the more general purpose of supporting the *Library Bill of Rights*, particularly Article III, which states that: "Censorship should be challenged by libraries in the maintenance of their responsibility to provide public information and enlightenment." Adherence to this principle is especially necessary when under pressure.

*(Adopted February 1, 1962; revised January 28, 1972 by the ALA Council.)*

## Library Bill of Rights

The Council of the American Library Association reaffirms its belief in the following basic policies which should govern the services of all libraries.

I. As a responsibility of library service, books and other library materials should be chosen for values of interest, information and enlightenment of all people of the community. In no case should library materials be excluded because of the race or nationality or the social, political, or religious views of the authors.

II. Libraries should provide books and other materials presenting all points of view concerning the problems and issues of our times; no library materials should be proscribed or removed from libraries because of partisan or doctrinal disapproval.

III. Censorship should be challenged by libraries in the maintenance of their responsibility to provide public information and enlightenment.

IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

V. The rights of an individual to the use of a library should not be denied or abridged because of his age, race, religion, national origins or social or political views.

VI. As an institution of education for democratic living, the library should welcome the use of its meeting rooms for socially useful and cultural activities and discussion of current public questions. Such meeting places should be available on equal terms to all groups in the community regardless of the beliefs and affiliations of their members, provided that the meeting be open to the public.

*(Adopted June 18, 1948; amended February 2, 1961, and June 27, 1967, by the ALA Council.)*

## School Library Bill of Rights

The American Association of School Librarians reaffirms its belief in the Library Bill of Rights of the American Library Association. Media personnel are

concerned with generating understanding of American freedoms through the development of informed and responsible citizens. To this end the American Association of School Librarians asserts that the responsibility of the school library media center is:

To provide a comprehensive collection of instructional materials selected in compliance with basic written selection principles, and to provide maximum accessibility to these materials.

To provide materials that will support the curriculum, taking into consideration the individual's needs, and the varied interests, abilities, socio-economic backgrounds, and maturity levels of the students served.

To provide materials for teachers and students that will encourage growth in knowledge, and that will develop literary, cultural and aesthetic appreciation, and ethical standards.

To provide materials which reflect the ideas and beliefs of religious, social, political, historical, and ethnic groups and their contribution to the American and world heritage and culture, thereby enabling students to develop an intellectual integrity in forming judgments.

To provide a written statement, approved by the local Boards of Education, of the procedures for meeting the challenge of censorship of materials in school library media centers.

To provide qualified professional personnel to serve teachers and students.

*(Approved by American Association of School Librarians Board of Directors, Atlantic City, 1969.)*

## Statement On Labeling

### An Interpretation of the Library Bill of Rights

Because labeling violates the spirit of the *Library Bill of Rights*, the American Library Association opposes the technique of labeling as a means of predisposing readers against library materials for the following reasons:

1. Labeling<sup>1</sup> is an attempt to prejudice the reader, and as such it is a censor's tool.

2. Although some find it easy and even proper, according to their ethics, to establish criteria for judging publications as objectionable, injustice and ignorance

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<sup>1</sup>"Labeling," as it is referred to in the *Statement on Labeling*, is the practice of describing or designating certain library materials, by affixing a prejudicial label to them or segregating them by a prejudicial system, so as to predispose readers against the materials.

rather than justice and enlightenment result from such practices, and the American Library Association must oppose the establishment of such criteria.

3. Libraries do not advocate the ideas found in their collections. The presence of a magazine or book in a library does not indicate an endorsement of its contents by the library.

4. No one person should take the responsibility of labeling publications. No sizable group of persons would be likely to agree either on the types of material which should be labeled or the sources of information which should be regarded with suspicion. As a practical consideration, a librarian who labels a book or magazine might be sued for libel.

5. If materials are labeled to pacify one group, there is no excuse for refusing to label any item in the library's collection. Because authoritarians tend to suppress ideas and attempt to coerce individuals to conform to a specific ideology, the American Library Association opposes such efforts which aim at closing any path to knowledge.

*(Adopted July 13, 1951; amended June 25, 1971, by the ALA Council.)*

## Resolution On Challenged Materials

### An Interpretation of the Library Bill of Rights

WHEREAS, The *Library Bill of Rights* states that no library materials should be proscribed or removed because of partisan or doctrinal disapproval, and

WHEREAS, Constitutionally protected expression is often separated from unprotected expression only by a dim and uncertain line, and

WHEREAS, Any attempt, be it legal or extra-legal, to regulate or suppress material must be closely scrutinized to the end that protected expression is not abridged in the process, and

WHEREAS, The Constitution requires a procedure designed to focus searchingly on the question before speech can be suppressed, and

WHEREAS, The dissemination of a particular work which is alleged to be unprotected should be completely undisturbed until an independent determination has been made by a judicial officer, including an adversary hearing,

THEREFORE, THE PREMISES CONSIDERED, BE IT RESOLVED, That the American Library Association declares as a matter of firm principle that no challenged library material should be removed from any

library under any legal or extra-legal pressure, save after an independent determination by a judicial officer in a court of competent jurisdiction and only after an adversary hearing, in accordance with well-established principles of law.

*(Adopted June 25, 1971, by the ALA Council.)*

## What The American Library Association Can Do For You To Help Combat Censorship

The American Library Association maintains a total program for the promotion and defense of intellectual freedom, composed of the Intellectual Freedom Committee, the Office for Intellectual Freedom, the Freedom to Read Foundation, and the *Program of Action for Mediation, Arbitration and Inquiry*. Each of these performs a unique role in the overall challenge of censorship.

*Intellectual Freedom Committee.* Established by the ALA Council in 1940 as the Committee on Intellectual Freedom to Safeguard the Rights of Library Users to Freedom of Inquiry, the present Intellectual Freedom Committee is the oldest of the Association's units involved in combating censorship and promoting intellectual freedom. As amended at the 1971 Midwinter Meeting, its statement of responsibility is: "To recommend such steps as may be necessary to safeguard the rights of library users, libraries, and librarians, in accordance with the First Amendment to the *United States Constitution* and the *Library Bill of Rights* as adopted by the ALA Council; and to work closely with the Office for Intellectual Freedom and with other units and officers of the Association in matters touching intellectual freedom and censorship."

Recommending policies concerning intellectual freedom to Council, therefore, is the Intellectual Freedom Committee's main responsibility. Its area of concern is limited to a degree: "steps . . . necessary to safeguard the rights of library users, libraries, and librarians, in accordance with the First Amendment . . . and the *Library Bill of Rights*. . . ." The second sentence of the statement of responsibility makes explicit the close association among the committee, the Office for Intellectual Freedom, and other ALA units such as the ALTA Intellectual Freedom Committee.

The committee's underlying concern is always educational in nature. The most effective "safeguards" for the rights of library users are an informed electorate and a library profession aware of repressive activities and how to combat them.

*The Office for Intellectual Freedom.* The goal of the Office for Intellectual Freedom, established in December 1967, is to educate librarians to the importance of the concept of intellectual freedom. Toward this end, the Office serves as the administrative arm of the Intellectual Freedom Committee and bears the responsibility for implementing ALA policies on intellectual freedom.

Educating librarians to the importance of intellectual freedom principles requires teaching an understanding of the concept as it relates to the individual, the institution, and the functioning of our society. Hopefully, with understanding comes the ability to teach others. To aid this understanding, the Office maintains a complete program of educational and informational publications, projects, and services. The three major publications of the Office are the bi-monthly *Newsletter on Intellectual Freedom*, the monthly column in *American Libraries*, and the monthly *OIF Memorandum*.

The Office also distributes documents, articles, and ALA policies concerning intellectual freedom, among which are the *Library Bill of Rights*, the Association's basic policy statement on intellectual freedom; the *Freedom to Read Statement*; and the *School Library Bill of Rights*. As special circumstances require, materials distributed by the Office are augmented. During nationwide controversies concerning individual titles, press clippings, editorials, and public statements detailing the ways various libraries around the country handled requests to remove specific materials are compiled and sent out to others with problems. The special packets are publicized through the *OIF Memorandum*, the *Newsletter on Intellectual Freedom*, special mailings, and word of mouth. Inquiries and requests for these materials come to the Office from every part of the country.

One of the most often used and least heard about functions of the Office is its provision of advice and consultation to librarians in the throes of potential or actual censorship problems. Rarely does a day go by without a letter or phone call requesting advice about a specific book which has drawn the censorial attention of an individual or group in the community. In these cases, every effort is made to provide information or give any other assistance. Sometimes this takes the form of a written position statement, defending the principles of intellectual freedom in materials selection. Other times it requires names of persons available to offer testimony before library boards. In extreme cases, it demands visiting the community to view the problem first-hand and provide moral and professional support for the librarian and board. The alternative chosen is always the prerogative of the individual requesting assistance.

*Freedom to Read Foundation.* Through their respective responsibilities and cooperative activities, the Intellectual Freedom Committee and the Office for Intel-

lectual Freedom comprise two-thirds of the American Library Association's educational program in support and defense of intellectual freedom. The other part of the program is the Freedom to Read Foundation, established outside the structure of ALA but closely affiliated through its board of trustees and executive director, who also serves as the director of the Office for Intellectual Freedom. The Foundation was incorporated in November 1969, as ALA's response to the increased interest of its members in having machinery to support and defend librarians whose jobs are jeopardized because they challenge violations of intellectual freedom. Another primary objective of the Foundation is to provide a means through which librarians and others can set legal precedents for the freedom to read.

Educating to the importance of, and the necessity for, a commitment to the principles of intellectual freedom requires, also, an assurance that such a commitment will not result in legal prosecution, financial loss, or personal damage. It is the responsibility of the Freedom to Read Foundation to provide that assurance through financial assistance, legal assistance, and judicial challenge of restrictive legislation, thereby helping to establish a favorable climate for intellectual freedom.

Through the provision of financial and legal assistance, the Foundation attempts to negate the necessity for librarians to make the difficult choice between practical expediency and principle in materials selection.

Fighting repressive legislation before it is utilized is another area in which the Foundation attempts to benefit the profession. Librarians can cite many state penal codes prohibiting distribution of so-called "harmful matter." Generally, however, these codes give only the vaguest definition of what constitutes "harmful matter." Such statutes are significantly dangerous to individuals and institutions, for some permit, and even encourage, prosecution of noncommercial interests which have neither the incentive nor the resources to defend the propriety of individual publications. To render librarians vulnerable to criminal prosecution for purchasing and disseminating works which have not previously been held illegal through adversary hearings is to require every librarian to reject the primary philosophical basis of his role in society. Under such an obligation, he either knowingly becomes a censor or unknowingly breaks a law. The choice is inimical to the concept of intellectual freedom and a derogation of the professional responsibilities of librarians. Thus, the Foundation will challenge the constitutionality of those laws which can inhibit librarians from including in their collections and disseminating to the public every work which has not previously been ruled illegal. Through such projects, the Foundation will lay the basis for a favorable climate for the functioning of intellectual freedom in libraries.



Still another aspect of the Foundation is the LeRoy C. Merritt Humanitarian Fund. It was established by the Foundation's Board of Trustees in recognition of the need for support at the moment an individual finds his position in jeopardy or is fired in the case of intellectual freedom. This special fund allows for an immediate response prior to the development of all pertinent facts in a particular case. Although the fund is separate from other monies in the Foundation, its purpose is integrally related to the larger program of the Foundation.

While grants of assistance from the Foundation can only be made in cases where substantiating facts are available from the Office for Intellectual Freedom, the Intellectual Freedom Committee, or other sources, and in those cases where there is definitely an intellectual freedom issue at stake, monies from the LeRoy C. Merritt Humanitarian Fund can be made available under less rigid circumstances. Depending on the situation, grants can be made prior to establishment of claims that intellectual freedom is involved.

*The Program of Action for Mediation, Arbitration and Inquiry.* In June 1971, the ALA Council approved the *Program of Action for Mediation, Arbitration and Inquiry*, establishing a means for ALA to gather facts regarding violations of ALA policies concerning status, tenure, due process, employment practices, ethical considerations, and certainly, the principles of intellectual freedom.

Thus, on the one hand, the Intellectual Freedom Committee recommends policies for ALA in the area of intellectual freedom; these policies are made known and implemented through the Office for Intellectual Freedom. When violations of these policies are alleged, the problem falls under the *Program of Action . . .* and is referred to the Staff Committee on Mediation, Arbitration and Inquiry, so that facts can be gathered in an objective manner. The Staff Committee's procedures are dictated by the *Program of Action for Mediation, Arbitration and Inquiry*, as follows:

#### I. ESTABLISHMENT OF COMMITTEE

In order to carry out the intent and purposes of this policy as hereinafter set forth, a Committee, composed of senior staff members of the units of the Association with policy assignments in the areas hereinafter delineated, along with one staff member-at-large, is hereby established. The Committee shall be composed of five members, as follows:

- Executive Secretary, Association of College and Research Libraries
- Executive Secretary, Library Administration Division
- Director, Office for Intellectual Freedom

One staff member-at-large, chosen at the discretion of the Executive Director of ALA

Executive Director of ALA, Chairman

Nothing herein shall preclude the Committee, or its chairman, from drawing into the Committee, on a temporary basis, from time to time, and as may be necessary or desirable, senior staff members of other units of the Association when those other units may have interests involved or can supply needed expertise.

#### II. NAME OF THE COMMITTEE

The Committee shall be known as the Staff Committee on Mediation, Arbitration and Inquiry (hereinafter referred to as the Committee).

#### III. SCOPE OF RESPONSIBILITY

The Committee is hereby assigned responsibility for mediation, arbitration, and inquiry, relating to tenure, status, fair employment practices, due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by the Council of the American Library Association.

The Committee shall have full authority to interpret all pertinent ALA approved policies in implementing this *Program of Action for Mediation, Arbitration and Inquiry* and conducting activities to meet its Committee responsibilities.

Nothing in this *Program of Action for Mediation, Arbitration and Inquiry* nor in the authority assigned to the Committee shall be understood, implied or interpreted as granting or vesting in the Committee any policy-making function for any unit of the American Library Association. Nothing in this limitation, however, shall preclude the Committee from referring to any appropriate unit the need for ALA policy.

#### IV. COMPLAINTS

A. All complaints of alleged violations received at ALA Headquarters, regardless of the unit or individual receiving such, shall be forthwith transmitted to the Committee. No complaint of any alleged violation shall be considered unless it is made by a party directly involved in the alleged violation.

1. When a complaint is received, whether oral or written, the Committee shall supply a standard form, to be called Request for Action. The form is to be completed and signed, and returned to the Committee by the complainant.
2. Until a completed and signed Request for Action is received by the Committee, no formal\* action will be taken.

\*Formal action means mediation, arbitration, filing of a brief, or inquiry.

3. That a completed and signed form is necessary for formal action in no way precludes the Committee from taking informal action, such as, but in no way limited to, telephoning the complainant to offer reassurance or to gather additional information, helping the complainant find a position if he is unemployed, advising the complainant of local channels for the redress of the grievance, or notifying alternative sources of potential interest and financial support as appropriate. In some instances, "informal" action may include an actual visit to the complainant, whether by a member of the Committee, or by another person or persons the Committee so designates. Such visits, however, will be undertaken only on the approval of the chairman of the Committee, or his designate. "Informal" action may include such emergency action as the Committee agrees is necessary and appropriate.

B. After receiving a completed and signed form, it shall be the responsibility of the Committee to determine whether the matter is one which comes under its jurisdiction.

C. If the Committee determines that it has jurisdiction, it shall then determine the most appropriate course of action. Prior to undertaking the action deemed appropriate, however, the Committee shall ascertain that no adequate remedy is available from any alternative source.

1. Among, but not limited to, the possible courses of action are formal mediation and/or arbitration, an inquiry or referral of the matter to a more appropriate agency or organization.

2. If at any time after filing the Request for Action, the case involves a law suit, the Committee may determine to file, and may file, an *amicus curiae* brief, or take other appropriate action. The filing of an *amicus curiae* brief, however, should be limited to cases involving issues of primary importance to the American Library Association which have not yet been determined by the courts.

D. Except as provided in V. A., complaints may be withdrawn by the complainant, upon written notification to the Committee, or its chairman, at any time prior to the institution of formal action but not thereafter.

E. The Committee may decline to proceed further with a complaint at any point in the proceedings,

when, in the judgment of the Committee, further action is unfeasible. In any instance when the Committee declines to proceed, a report of the reasons shall be made by the chairman to the ALA Executive Board.

## V. INQUIRIES

A. When the Committee determines that a just and equitable resolution of the problem cannot be reached through arbitration and/or mediation, and that the matter warrants a formal inquiry, the Committee shall so notify the complainant. In such notification, the complainant shall be apprised of the seriousness of such an undertaking, and shall further be informed that he has ten days to withdraw his Request for Action. If, at the end of the ten-day period, the complainant has not withdrawn his Request for Action, a fact-finding subcommittee shall be appointed. (This paragraph is to be interpreted as meaning that the Committee may decide to attempt to arbitrate and mediate the problem, or it may determine that arbitration and mediation are not appropriate and/or would be to no avail and may proceed directly to an inquiry. However, no formal inquiry shall be made into cases which are in the process of local hearings, except in extraordinary circumstances, and no formal inquiry will be made into cases which are in litigation.)

B. The Committee shall appoint a fact-finding subcommittee whose duty it shall be to gather all of the facts involved in the matter, by interviewing the parties concerned, and through other appropriate means.

1. The fact-finding subcommittee shall be composed, generally, of three persons, including one member of Headquarters staff. Two persons, with the appropriate background of knowledge and experience in regard to the specific situation, shall be drawn from the ALA membership. In all cases, review by peers shall be provided, so that academic librarians conduct inquiries concerning academic librarians and libraries; public librarians conduct inquiries concerning public librarians and libraries; school librarians conduct inquiries concerning school librarians and libraries; and so forth.

2. All interviews by fact-finding subcommittees shall be conducted in the following manner:

a. All interviews shall be recorded and transcribed.

b. Immediately after the completion of all interviews, the subcommittee will prepare a detailed outline to be used by staff in writing the report.

c. Transcripts shall be made by the Committee for use by staff in writing the report.

d. Transcripts, after review, when necessary, by ALA Legal Counsel and deletion of any actionable material, shall be forwarded to interviewees with certificates of endorsement, for signature and certification. The certificate of endorsement shall read as follows:

#### CERTIFICATE

I certify that the above and foregoing is a transcript of the interview given by me to the Fact-Finding Subcommittee composed

of \_\_\_\_\_ (NAME) \_\_\_\_\_, \_\_\_\_\_ (NAME) \_\_\_\_\_,

and \_\_\_\_\_ (NAME) \_\_\_\_\_, in the matter of

\_\_\_\_\_ (NAME) \_\_\_\_\_, on the day of \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

e. Certified transcripts shall be used as background to write the report, after which the transcripts shall be placed in a confidential file designated by the Committee. This file will be accessible only to members of the Committee on Mediation, Arbitration and Inquiry, to such persons as the Committee may authorize, and to persons who may require the transcripts for reference in any further hearing(s) by the ALA Executive Board.

3. Following the completion of a fact-finding investigation a written report of the findings shall be prepared. Such reports of fact-finding subcommittees shall be sent to the ALA Executive Director, who shall direct copies to the ALA Legal Counsel and to the Committee for further action.

4. It shall be the responsibility of the Committee to recommend appropriate action, based

on the facts gathered in the investigation and reported in written form, to the ALA Executive Board. (Members of the fact-finding subcommittees shall not vote on actions.)

a. Reports of fact-finding investigations shall be considered highly confidential and shall not be made public, except as authorized by the ALA Executive Board.

b. Reports of fact-finding investigations, including revisions and recommendations for further action, as determined by the Committee shall be reviewed by ALA Legal Counsel prior to submission to the Executive Board.

c. Upon acceptance and approval of reports of fact-finding investigations by the Executive Board, the full report, a summary thereof, or a statement shall be published in *American Libraries* if so determined by the Executive Board.

#### VI. SANCTIONS

Sanctions may be defined as the appropriate penalty or penalties incurred for violations of one or more of the ALA approved policies to which this *Program of Action* relates.

A. Publication of a report that includes a statement of censure, indicating the strong disapproval of ALA because of a violation of one or more of the policies to which this *Program of Action* relates.

B. Suspension or expulsion from membership in ALA.

C. Listing of parties under censure in *American Libraries* as a warning to persons considering employment in an institution under censure that its practices and policies are in conflict with ALA policies concerning tenure, status, fair employment practices, due process, ethical practices, and/or the principles of intellectual freedom. On the same page with such listings of censured libraries shall appear the following statement:

"The fact that the name of an institution appears on the censured list of administrations does not establish a boycott of a library, nor does it visit cen-

sure on the staff. There is no obligation for ALA members to refrain from accepting appointment in censured libraries. The ALA advises only that librarians, before accepting appointments, seek information on present conditions from the Staff Committee on Mediation, Arbitration and Inquiry at Headquarters."

## VII. APPLICATION OF SANCTIONS

Sanctions can only be applied upon the completion of a full fact-finding inquiry, leading to a formal report on the basis of which the Committee recommends the imposition of appropriate sanctions. No sanction shall be imposed except with the approval of the ALA Executive Board.

## VIII. HEARINGS

Should the Committee recommend and the Executive Board approve the application of sanctions, the principals shall be notified that a hearing may be held to allow a final opportunity for appeals. Copies of the *full report* shall be forwarded to the principal(s) at this time.

## IX. REMOVAL OF SANCTIONS

Sanctions may be withdrawn when the conditions causing their original imposition are corrected, and when there is reason to believe that ALA principles concerning tenure, status, fair employment practices, due process, ethical practices and/or the principles of intellectual freedom will be observed in the future. To effect the removal of sanctions:

A. Each year the Committee shall query sanctioned institutions to determine if conditions warrant removal of sanctions; and/or

B. The sanctioned administration shall request review of the case, furnishing pertinent information as to why the sanctions should be removed;

C. The committee votes to recommend to the ALA Executive Board that sanctions be removed or retained.

## X. ALTERNATIVE ACTIONS

In addition to the possible sanctions, other recommendations for action can include, but are not limited to, the following:

A. Distribute summaries of the final report to the library and educational press, to national newspapers, and to other appropriate media, with a statement that copies of the full report are available from the Committee.

B. Assist, as appropriate, in finding suitable temporary or permanent employment for individuals who have lost their positions.

*(The ALA Executive Board, at its meeting on April 28, 1971, adopted the following item, which became effective when Council adopted the Program of Action for Mediation, Arbitration and Inquiry.)*

## XI. COMMITTEE ON POLICY AND IMPLEMENTATION

A. In order to assure Council and the membership of full implementation of the *Program of Action for Mediation, Arbitration and Inquiry*, a Committee on Policy and Implementation is hereby established by the ALA Executive Board. The Committee on Policy and Implementation shall be composed of five members as follows:

President of the Association of College and Research Libraries, or his representative;

President of the Library Administration Division, or his representative;

Chairman of the Intellectual Freedom Committee, or his representative;

One member-at-large, appointed by the President of ALA;

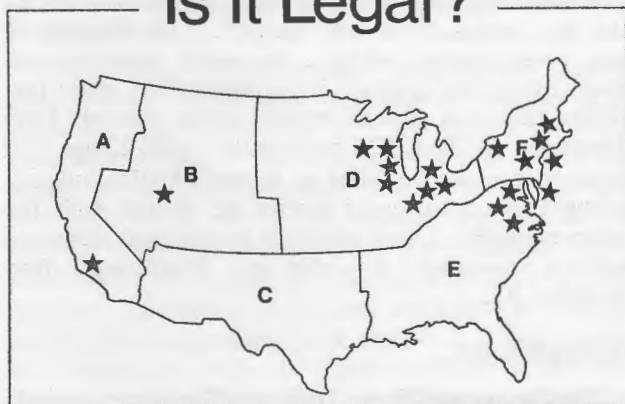
President of ALA, Chairman

B. Function of Committee on Policy and Implementation

The Committee on Policy and Implementation is authorized and charged with ascertaining that the intent of the *Program of Action for Mediation, Arbitration and Inquiry* is fulfilled and implemented, and that the Staff Committee on Mediation, Arbitration and Inquiry is working within the scope of the *Program of Action for Mediation, Arbitration and Inquiry* and is expediting with reasonable speed the just resolution of the complaints received.

*(Adopted by ALA Council June 25, 1971.)*

## Is It Legal?



### PACIFIC COAST STATES (A)

Los Angeles, Cal.

The ACLU filed suit in Superior Court seeking permission for the University of Michigan band to stage an antiwar, halftime performance during the Rose Bowl game. Filed on behalf of two University of Michigan student leaders, the suit sought to overturn a decision by university officials to cancel the performance, which was executed during another game earlier in the fall. Allegedly, the rumored appearance of President Nixon at the game prompted the cancellation. Reported in: *New York Post*, December 30.

### ROCKY MOUNTAIN STATES (B)

Salt Lake City, Utah

City commissioners voted 2 to 2 to reject a proposed ordinance to ban "adults only" films from Salt Lake City. Reported in: *Salt Lake Tribune*, December 22.

### MIDWESTERN STATES (D)

Cincinnati, Ohio

Charles H. Keating, founder of Citizens for Decent Literature and dissenting member of the Commission on Obscenity and Pornography, filed suit on behalf of the State of Ohio to shut down the Cinema X Theater as a public nuisance. The petition for a preliminary injunction alleges that the films are hardcore pornography depicting sex acts which will cause moral pollution. The suit also seeks forfeiture of all receipts from the time the films were first shown (July). During a hearing by Common Pleas Court Judge William S. Mathews regarding the admissibility as evidence of photographs of

the allegedly obscene films, former Cinema X projectionist Gary Madison said he expects to be paid \$1000 to appear as a witness against the theater. He testified that the cash payment was promised by one of the three lawyers seeking the injunction. Reported in: *Cincinnati Enquirer*, November 18; December 8, 17.

Cincinnati, Ohio

Ruling in a suit filed by Charles H. Keating, Jr., Judge William S. Mathews ordered Cinema X Theater to produce as evidence two films and two previews for viewing by the court. Judge Mathews threatened to find the theater owners in contempt of court if they did not comply. The films, *Daisy Day*, *Ozark Virgin* and *Your Wife and Mine* were previously returned to the distributors under a pre-existing contract. Photographs and tape recordings made of the films by Keating's representatives were already shown in court. Reported in: *Cincinnati Enquirer*, December 10.

Columbus, Ohio

Charged with violating state and local laws forbidding the exposure of minors to harmful material, a bookstore employee, George F. Hill, was arrested for selling the December issue of *Playboy* magazine. Arresting Officer Sgt. Mitchell Stauffer, who arranged for 17-year-old Steve Herrell to make the purchase, watched the minor pick the magazine from an outside counter. Although the arrest affidavit does not contain the words "obscene" or "pornography," the term "harmful materials" includes matter which appeals to prurient interest in sex. The arrest was based on one picture in the magazine. Reported in: *Columbus Dispatch*, December 8.

Columbus, Ohio

The state Supreme Court agreed to review a Lucas County Court injunction against the film *Without a Stitch*. The injunction, sought by Clark Ewing in 1970, allowed the allegedly obscene film to be shown under a \$20,000 bond. The District Court of Appeals, which upheld the injunction, assessed a \$3,000 tax on the theater and ordered an audit of box office receipts. Appealing to the high court, theater owners noted that a federal district court in California ruled that the film is not obscene. Reported in: *Columbus Dispatch*, December 11.

Brookfield, Wis.

Concerned with what might be a violation of state obscenity statutes, Waukesha County District Attorney Richard McConnell said that if the Unitarian Church begins a sex education program "without first establishing ground rules with this office, prosecution could result." The Sunday school course, entitled "About Your

Sexuality," includes a film strip showing couples having intercourse. Petitions opposing the church program were filed with the Brookfield City Council, which has not yet decided if it should intervene. Rev. Robert C. A. Moore, minister of the church, will meet with Mc-Connell to discuss the matter. Reported in: *New York Times*, January 2.

#### **Milwaukee, Wis.**

Noting that men, not women, purchase sex books in his client's bookstore, Attorney James A. Walrath asked a Circuit Court judge to exclude all women from the jury in an obscenity trial. Attorney Walrath based his request on the theory that women are not the people to whom the allegedly obscene book is directed. Reported in: *Milwaukee Journal*, December 16.

#### **Milwaukee, Wis.**

Despite Mayor Henry W. Maier's announcement that he will no longer answer questions from reporters of the *Milwaukee Journal*, the newspaper stated it will continue to attend city hall press conferences and ask questions. The editors called the announcement "a further imposition of censorship" which inhibits the people's right to know. Mayor Maier reportedly refused to grant interviews to *Journal* reporters in the past. Reported in: *Milwaukee Journal*, December 18.

#### **Whitewater, Wis.**

In ordering the withdrawal of five "men's magazines" and a calendar from the University Bookstore, Dean Wolf, executive director of business, stated that the magazines "do not justify the cost of handling them." Bob Meracle, manager of the bookstore, said there was no discussion of financial problems when Wolf and two other university officials visited him, but rather that the bookstore "couldn't sell that sort of thing." Two of the magazines withdrawn made a profit of \$2.00 and \$3.00 per month, claims Wolf. But, Meracle stated that another banned title, *Penthouse* realized a profit of \$540 a month. Reported in: *University of Wisconsin Royal Purple*, November 23.

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

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

Fired after he broadcast a controversial news story over WQWK-FM radio, James C. Lange requested the Federal Communications Commission (FCC) to order his reinstatement with full back pay. His petition, filed by a group of public interest lawyers, claims Lange was fired when he implied in a news broadcast that State College, Pa., merchants violated government price regulations. Believed to be the first case of its kind, the request seeks an FCC ruling that broadcasters may not

fire employees without providing advance written notice of the reasons and time to respond. The petition further asks that broadcasters not "distort . . . the content of news programming solely . . . to avoid economic reprisals by station sponsors." It requests an order forbidding alteration of news content due to pressure from advertisers. WQWK-FM management said Lange was dismissed because he failed to follow a station rule requiring that controversial stories be cleared with the station manager. Lange contends he obtained clearance from his supervisor. Reported in: *Washington Star*, December 27.

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

The Senate and House Judiciary Committees quietly passed a private bill granting the Christian Science Church an unusual 75-year copyright covering its basic religious book, *Science and Health with Key to the Scriptures*, by Mary Baker Eddy. Church spokesmen said that a new copyright will ensure that Church members read authorized versions of Eddy's work, not versions published by dissident groups or commercial firms. The bill, yet to receive final clearance from Congress, was objected to by the New York City Bar Association which said the new copyright is an unconstitutional form of aid by the state to one religious group. Sen. Jacob J. Javits (R-N.Y.) has temporarily blocked final action on the new copyright. Reported in: *Washington Post*, November 25.

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

A group of journalists representing various newspapers filed suit against Attorney General John N. Mitchell to challenge the Justice Department's policy prohibiting press interviews with inmates of federal prisons. Nine federal prison inmates, Amsterdam News, and Playboy Enterprises, Inc., joined as plaintiffs. The suit alleges that interviews with prisoners are permitted by several state institutions, but the federal prison system, which should serve as the model, bars them. The suit was assigned to U. S. District Judge John Lewis Smith, Jr. Reported in: *Washington Post*, January 20.

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

On behalf of the county board of supervisors and fourteen residents, County Attorney Andrew J. Ellis is seeking an injunction against the showing of X-rated movies at the Rosebowl Drive-In Theater. The suit contends that the movies depicting sexual acts are not suitable for viewing by children and that the fourteen plaintiffs, who reside near the theater, suffer invasion of privacy by constant subjection to the films. At a December hearing, Circuit Court Judge E. P. Simpkins, Jr. granted a continuance of the case after Ellis successfully sought amendment of the complaint. Reported in: *Richmond News Leader*, December 24.

## NORTH ATLANTIC STATES (F)

### Boston, Mass.

The Unitarian-Universalist Association, charging that its First Amendment guarantee of freedom of religion was being threatened, filed suit against the Justice Department seeking cancellation of a grand jury subpoena for its bank records. Beacon Press, the non-profit publishing arm of the religious organization, last October published an edition of the *Pentagon Papers*, based on a copy provided by Senator Mike Gravel (D-Alaska). In November, Gravel succeeded in stopping the FBI from examining bank records that might reveal his transaction with the Unitarian-Universalists and Beacon Press. The U. S. Court of Appeals, however, ruled that the grand jury was free to inquire into publication of the papers by Beacon, so long as it did not question Gravel or any of his aides on the subject. Gravel's lawyers said they will ask the appellate court to extend congressional immunity to cover book publication arranged by the Senator. Reported in: *Washington Post*, January 12.

### Buffalo, N.Y.

The Erie County legislature voted to withhold badly needed funds from the city's resident theatrical company unless it guarantees not to produce "morally objectionable presentations" in the future. Theater president Welles V. Moat, Jr., declined to give the required guarantees. The funds were refused after criticisms of Studio Arena Theater productions from Morality in Media and Credo, an association of Roman Catholic religious orders in the Diocese of Buffalo. Though the groups called several productions "tasteless, vulgar and offensive," their principal target was *Hair*, sponsored by the company in early 1971. Both city newspapers oppose the legislature's decision, and one legislator intends to move that the vote be rescinded, or that, in keeping with the decision, a review board be set up to police books in the county's library and paintings in a local museum, since both institutions receive annual grants. Reported in: *New York Times*, December 24.

### New York, N.Y.

The Network Project has filed suit in a New York Federal Court against the Corporation for Public Broadcasting (CPB) and its programming arm, the Public Broadcasting Service (PBS). The suit charges that CPB maintains "a system of centralized censorship over much of public television programming" and seeks an injunction against PBS because it "exercises unilateral control over programming" to public TV stations. The New York-based group said that PBS represents a public TV network which violates the 1967 Public Broadcasting Act barring establishment of a fourth network. Reported in: *Washington Post*, December 24.

### North Smithfield, R.I.

In exchange for a reduction in the annual license fee—from \$18,250 to \$1,000—the Rustic Drive-In theater, which shows only X-rated movies, agreed to increase its policing to prevent minors from viewing the films, and to show more "family" films during the summer season. The town council had hiked the license fee from \$160 a year to \$50 a day to halt the X-rated movie showings. Owners of the drive-in, Esquire Theaters of America, won a temporary restraining order against the hike November 30, one day before the new license was to take effect. Following an agreement with the town council over the fee reduction, the firm will file to discontinue the case. Reported in: *Providence Journal*, December 9.

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## Civil Liberties and the Constitution

Speech, press, assembly, and association represent rights that go to the heart of the democratic process. For without these guarantees that process becomes hollow. That process must ensure free exchange of ideas, ensure minorities the opportunity to challenge the majority and its prevailing policies with full opportunity to change those policies and the majority itself. This constant sifting and winnowing process — with constantly shifting majorities and minorities — is premised upon preserving and protecting the First Amendment rights of all of us. To put the matter starkly, this means that to keep the democratic process open and functioning, those we hate must be as fully protected in the exercise of their rights to free speech, press, association, and assembly as those we like. Even in periods of relative calm this is not an easy proposition. And given periods of great controversies, such as those involving civil rights and the Vietnam war — when the pressure on these constitutional rights is severe — the proposition becomes even more difficult to uphold. This applies to those who espouse unpopular causes, who participate in mass demonstrations and parades, who picket, who distribute literature that some think is obscene. Here is where First Amendment guarantees have met and are likely to meet some of their most severe tests. Substantial state interests, such as the preservation of peace and order invariably collide with substantial constitutional interests, viz., free speech, assembly, and association. The intensity of civil rights and the antiwar drives, coupled with the equally intense determination of law enforcement officials and others to maintain "law and order," has exacerbated the problem. — *Civil Liberties and the Constitution*, edited by Barker and Barker.

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# Success Stories



## ROCKY MOUNTAIN STATES (B)

### Mountain Home Air Force Base, Idaho

James C. Shaffer, a young airman, defended by lawyer-author Mark Lane, was cleared by a special court-martial of charges of illegally distributing peace literature in the enlisted men's barracks without approval of the commander. Shortly after Shaffer's acquittal, similar charges against another airman were dropped. Reported in: *New York Times*, December 10.

## MIDWESTERN STATES (D)

### DeKalb, Ill.

A school-imposed ban on singing the "Star Spangled Banner" at home basketball games was lifted by University of Illinois officials. The ban, intended to avoid racial incidents, was announced in December after black students objected to the pre-game playing and singing of the song. Reported in: *Washington, D. C. News*, January 5.

### Wichita, Kan.

At the city commission's November meeting, attended by only four members, Mayor Greene and Commissioner Stevens attempted to ban X-rated movies from Wichita theaters. Negative votes cast by the two other commissioners nullified the censorship attempt. Reported in: *Wichita Eagle*, November 29.

### Lincoln, Neb.

In a 4-to-3 vote, the Pershing Auditorium board of directors reaffirmed its previous decision to allow the musical, *Hair*, to perform in the auditorium. The final decision now rests with the mayor, Sam Schwartzkopf. Reported in: *Lincoln Journal*, December 15.

### Dayton, Ohio

Gov. John J. Gilligan's recent order ending censorship of prison mail was hailed as a morale booster by

inmates and prison authorities. Under the new "no censorship" policy, inmates can write what they wish to anyone they please. Incoming mail is still opened for contraband, but letters are not read. Pornography, "lonely hearts" lists, hate-mail, and printed material dealing with racism and radical political views are still eliminated. Reported in: *Dayton Journal Herald*, November 15.

### Kenosha, Wis.

Acting upon the recommendations of a special book review committee, the Unified School Board voted to continue using *Manchild in the Promised Land* in a Bradford High School senior course. Claude Brown's book was banned after some parents objected to its frank use of four-letter words and sexual references. Recommendations of the study committee were that the book be reinstated, that acceptable alternative selections be considered for future courses, and that board and district policy regarding book selection be made available to teachers and librarians. The committee's report noted that present board policy affirms the right of a parent to complain and to see that his child is not required to read material he considers objectionable. Reported in: *Kenosha News*, November 9.

## SOUTHERN STATES (E)

### Annapolis, Md.

An order prohibiting county officials from answering oral questions from reporters of *The Evening Capitol* was rescinded by Joseph W. Alton, Jr., a county executive. Following the newspaper's recent publication of articles criticizing county operations, Alton ordered his department heads only to give written answers to written questions from *The Evening Capitol*. He stated that he lifted the ban because he has a "sense of responsibility" for his position. Reported in: *New York Times*, December 9.

### Montgomery County, Md.

The Montgomery County School Board voted to permit antiwar organizers to speak at the Robert E. Peary High School. Principal Fred L. Dunn had twice refused to permit organizers of the Student Mobilization Committee to speak at student-oriented seminars last spring but was overruled by the deputy superintendent. (See May 1971 *Newsletter*, p. 68.) However, the night before the scheduled May seminar, a group of parents obtained a court order barring the antiwar organizers and took their case before the state board. Although the injunction was lifted, Dunn refused a similar speaker request for a fall seminar on the grounds that the matter was before the state board. The parents' group subsequently dropped its case, and the county board stated that new requests would have to be decided by school



officials. While the local issue is a compromise, the ACLU is seeking a statewide ruling so that students can invite anyone they wish. Reported in: *Washington Post*, January 5.

## NORTH ATLANTIC STATES (F)

### Trenton, N.J.

Proposed anti-obscenity legislation died when the New Jersey legislature adjourned in December without putting the bills to a vote. The four-bill package was intended to keep obscene material out of sight and possession of persons under eighteen and to eliminate from existing obscenity statutes the phrase "utterly without redeeming social value," which was an obstacle in gaining convictions in obscenity cases. Because of possible opposition from the governor's office, the proposed legislation might not be reintroduced in the 1972 session. In the courts, two obscenity case rulings reaffirmed restrictions on police procedures. (Law enforcement agencies were told by the Superior Court Appellate Division that they could seize allegedly obscene films if other copies are available for showing in theaters. Superior Court Judge Erwin S. Furlop confirmed decisions that police cannot seize allegedly obscene materials on a general warrant, but must specify the items with which they are concerned. Reported in: *Newark Advocate*, December 16.

### New York, N.Y.

The *New York Times* was awarded the University of Arizona's John Peter Zenger Award for its publication of the *Pentagon Papers*. Presented for "distinguished service to freedom of the press and the people's right to know," the award, established in 1954, was given for the first time to an organization rather than an individual. Reported in: *New York Times*, December 17.

### Cranston, R.I.

Rebuffing a complaint that children are exposed to allegedly obscene materials in the library, the Cranston Board of Library Trustees adopted a policy allowing parents to decide whether their children should have restricted or unrestricted library cards. (See January 1972 *Newsletter*, p. 18.) John P. Byrne, who forced the compromise action, contended that the library staff should oversee children's reading of library materials in and off premises. The new procedures allow parents to decide at what age their children under 18 will have adult cards, but the *parents* must take the initiative in requesting restrictions. Although the board did not set guidelines for determining what books are to be considered obscene or pornographic, the librarian is expected to confer with parents in specific cases and make appropriate decisions. Reported in: *Providence Journal*, November 24.

# Titles Now Troublesome

## Books

*August 1914*, p. 42  
*Imperium*, p. 66  
*Lincoln's Negro Policy*, p. 66  
*Manchild In the Promised Land*, p. 60  
*Movement Toward A New America*, p. 39  
*New Underground Theater*, p. 41  
*Pentagon Papers*, p. 59  
*Science and Health with Key to the Scriptures*, p. 58  
*Wreck of the Penn Central*, p. 42

## Periodicals

*Arkansas Democrat*, p. 41  
*Athens News*, p. 62-63  
*Black Panther*, p. 41  
*Campus Echo*, p. 47  
*Catalyst*, p. 46  
*Dubloon*, p. 40  
*Evening Capitol*, p. 60  
*Evergreen*, p. 41  
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*Ramparts*, p. 41  
*Rebel*, p. 42  
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## Movies

*Andrei Rubley*, p. 63  
*Blue Movie*, p. 48  
*Bronco Bullfrog*, p. 64  
*Carnal Knowledge*, p. 42  
*Censorship in Denmark*, p. 48  
*Confession, The*, p. 63  
*Daisy Day*, p. 57  
*Ginger*, p. 41  
*I A Woman—Part II*, p. 46  
*Mad Loves of a Hot Vampire*, p. 47  
*Old Miss Bodie*, p. 47  
*Ozark Virgin*, p. 57  
*Panic In Needle Park*, p. 64  
*Senta*, p. 45

(Continued on page 64)

# Intellectual Freedom International

## SOUTH AMERICA

### Rio de Janeiro, Brazil

Despite censorship of his songs, Chico Buarque de Hollanda says he will compose and sing regardless of pressures from the military-run government. At one point, federal censors rejected two of every three songs he sought to clear for public performance. His hit single record, "Apesar De Voce," was confiscated by police from stores last May, supposedly because it criticized government censorship. Reported in: *Baltimore Sun*, December 31.

### Sao Paulo, Brazil

Police closed 28 movie theaters because they had not complied with regulations requiring them to show Brazilian films *only* for at least 84 days of the year. Reported in: *Washington Post*, January 27.

### Santiago, Chile

Radio Balmaceda was suspended from broadcasting for "serious offenses against the President and the armed forces" of Chile's left-wing government. The 48-hour suspension is the second for the station in a month. The hard line taken against the radio station, controlled by the opposition Christian Democratic party, illustrates the legal powers of President Salvador Allende to act against newspapers and radio stations attacking the government. Reported in: *New York Times*, December 12.

### Lima, Peru

The military government removed Pedro Beltran as publisher of the newspaper *La Prensa*. An order removing him from his post and directing him to sell his stock in the newspaper was announced by the prefect of the province of Lima. The government charged that Beltran failed to comply with a provision of the "freedom of the press" statute because he had left the country for more than six months. It is generally acknowledged that, since the enactment of the 1969 freedom of the press statute, Peruvian newspapers have exercised a considerable degree of self-censorship for fear of government intervention. Reported in: *New York Times*, January 27.

## EUROPE

### Berlin, East Germany

East German artists enjoy new liberties after six years of tight controls imposed by the Communist Gov-

ernment. Evidence of looser cultural policy is a new program at the Cabaret Die Distel, with sharp political satire of the social structure. A party official, commenting on the government curb initiated in 1965, said the controls did not work and that East Germany had become even more repressive than the Soviet Union in the arts. Reported in: *New York Times*, December 2.

### London, England

*Women's Wear Daily* and its London correspondent, Steffi Fields, were expelled from the Association of American Correspondents (London) for one year for violation of "professional ethics." The offense was the publication of a purported "interview" between Princess Anne and Miss Fields. The association said that the article was, in fact, based on an off-the-record meeting the Princess had with a group of reporters. The informal interview was arranged and attended only by the correspondents' group. Reported in: *Baltimore Sun*, January 1.

### London, England

St. Paul's Cathedral has become a focal point of English clergymen exchanging heated charges of blasphemy and bigotry. Protesting plans to celebrate a December communion with songs from the rock-musical *Hair*, opponents said they were horrified by the prospect of nudity and drugs being praised by a choir, which would include the musical's cast. They urged the Very Rev. Martin Sullivan, dean of St. Pauls, to reconsider his plans commemorating the third anniversary of the show's London production. Supporters of the communion service accused church conservatives of "narrow-minded, reactionary and moralistic bigotry" in attempting to suppress an art form. Reported in: *Baltimore Sun*, December 10.

### Paris, France

Maurice Clavel, French writer, journalist and star of his own TV debate show, accused the government-controlled television network of censorship. During the program *Arms Equal*, Clavel reported that President Pompidou had expressed "irritation and aversion" to the present-day "romantic" idea of French wartime resistance. The program producers did not like the word "aversion," and cut it out. Reported in: *Chicago Daily News*, December 22.

### Athens, Greece

Convicted in November of violating the country's stringent press law by printing a misleading headline, Yannis Horn refuses to be silent about the Greek government. The editor and publisher of the *Athens News* wrote about Premier George Papadopoulos's announcement that as of January 1 martial law will be lifted throughout the country except in Athens and two other cities. He added that discontinuance of martial law in

Vice President Agnew's hometown of Gargalianoi may have resulted as a request from Agnew, or as a gesture of courtesy from the Premier. Horn's November conviction resulted from printing the headline, "Bombs, Recruited Schoolchildren, Greet Agnew," the day after the Vice-President arrived for a visit. Reported in: *New York Times*, December 31.

#### Madrid, Spain

The Spanish Bishops Committee on Peace and Justice issued an official document stating that frequent use of legal restrictions by Generalissimo Francisco Franco's government has led to "a sickly kind of peace." The committee charged that officials have consistently used "peace" as an excuse to suppress all efforts for liberty or social justice. The document indicts the regime for using force and repression, including the seizure of newspapers, to solve national problems. The document is the Catholic Church's strongest pronouncement to date against restrictive measures. Reported in: *New York Times*, December 23.

#### Madrid, Spain

Antonio Fontan, former editor of the suspended newspaper *Madrid*, resigned to allow the daily to resume publication. The newspaper was closed in November by government officials because of administrative irregularities related to a listing of the paper's stockholders. Undisclosed sources said the Ministry of Information canceled *Madrid's* publication permit because Fontan refused to be replaced by a right-wing editor. Rafael Calvo, *Madrid's* publisher, was also asked to resign, but left for Paris where he denounced the regime in a French newspaper. Officials then ordered his arrest and trial for "damage to the credit or authority of the state" by publishing "false news or rumors" outside Spain. In parliament, legislators press for a revision of the 1966 press law to protect independent newspapers from suffering similar fates. Before *Madrid* closed, it was constantly pressured by the ministry because of criticism of the regime. Reported in: *Washington Post*, December 16; 29.

#### Geneva, Switzerland

The cancellation of credentials of two Chinese Nationalist correspondents by U. N. Secretary General Thant was termed a dangerous precedent by the International Press Institute. A United Nations spokesman said the ouster was initiated by the People's Republic of China soon after its delegation arrived in New York. Peking officials stated that since the news agency was operated by the Taiwan Government, its personnel must be expelled along with the delegation. The United Nations Correspondents Association and the U. S. delegation to the U. N. have joined in the protest. Reported in: *New York Times*, December 20 and 24.

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

Soviet censors lifted a ban on the film *Andrei Rubley*, once deemed "too sensitive" for showing to Soviet audiences. A Cannes film-festival winner, the movie portrays repression and suffering in medieval Russia, and includes mass-nude scenes, and sequences of torture, massacres and eye-gouging. No official explanation was given for the ban or its recent reversal, but Soviet film experts say the movie was too experimental, too harsh and even too frightening, in its portrayal of Russian life, to fit the mood of national glorification in 1967. Reported in: *New York Times*, December 27.

#### Belgrade, Yugoslavia

Criticized for their leniency toward Croatian nationalism and separatism, the editor and assistant editor of Belgrade's humorous weekly newspaper, *Jez (Hedgehog)*, have lost their jobs. The firings were part of a purge ordered by Marshall Tito to oust all nationalist officials from local party, political and social organizations, newspapers and cultural institutions. Reported in: *New York Times*, December 26.

## MIDDLE EAST

#### Cairo, Egypt

A 20-year-old ban on books about Israel was lifted by government officials. Noting that "Egyptians should know how the enemy live . . . think and . . . behave," the minister of culture and information said that books dealing with politics, and social and economic affairs in Israel henceforth will be permitted in Egypt. Reported in *Baltimore Sun*, January 3.

#### Beirut, Lebanon

Following a protest by Soviet Ambassador Savar Azimov, government censors banned the showing of the film *The Confession*. The film tells of the 1952 purge in Czechoslovakia and the part Soviet agents allegedly played in forcing false confessions from defendants. Reported in: *Philadelphia Inquirer*, December 29.

## ASIA

#### Calcutta, India

The Overseas Communications Service said that Indian military authorities would not clear for transmission five radiophotos showing executions of East Pakistani "collaborators" in Dacca. A. S. Khadilkar, director of the communications service, said all pictures considered sensitive in terms of national interest are submitted to the authorities for clearance. "I don't call

it censorship," Khadilkar said. The photos were barred because they were "detrimental to Indian national interests." Reported in: *St. Louis Dispatch*, December 21.

### **Rawalpindi, Pakistan**

Foreign correspondents reporting on the war between Pakistan and India were barred from areas of fighting except under escort and were forbidden to speak with military men other than designated officers. News-men also were ordered not to mention Pakistani casualties or specific damage to roads and communications. Though a government spokesman said censorship was not in effect, dispatches from correspondents were sporadic and experienced long delays. Reported in: *New York Times*, December 8.

### **Seoul, South Korea**

President Park Chung Hee threatens martial law if the National Assembly fails to pass a bill giving him broad powers to cope with national emergencies. His opposition is determined to block the bill, which includes control of the press and a restriction on outdoor rallies. Opposition party spokesman Kim said the new Democratic Party is resolved "to protect constitutional government and democracy." The bill was introduced to provide legal grounds for a state of national emergency proclaimed December 6. Reported in: *New York Times*, December 24.

### **Saigon, South Vietnam**

New ground rules were imposed for news coverage of South Vietnamese troops. Similar to those set by the U. S. over six years ago, the rules bar reports of troop movements smaller than divisions or reports of the exact location of troops. Accreditation of correspondents can be suspended for minor violations, or revoked for serious or repeated violations. If accreditation is revoked, the correspondent's visa is also revoked. Reported in: *New York Times*, December 1.

### **Bangkok, Thailand**

Comment by government or private radio and television stations on news about China has been banned by the National Executive Council. Reported in: *New York Times*, December 1.

## **OCEANIA**

### **Canberra, Australia**

Censors have cut one-minute-forty seconds from the movie *Panic In Needle Park* for its alleged incitement to drug abuse, and one second from the British movie *Bronco Bullfrog* for "indecent language." Reported in: *Washington Post*, January 21.

## **Titles Now Troublesome . . . (from page 61)**

*Teacher's Pet*, p. 47  
*Without A Stitch*, p. 57  
*Your Wife and Mine*, p. 57

### **Songs**

*Apesar de Voce*, p. 62  
*Dixie*, p. 46  
*Star Spangled Banner*, p. 60

### **Television Programs**

*Arms Equal*, p. 62  
*Cara a Cara ante el Pais*, p. 40

### **Theater Productions**

*Hair*, pp. 59, 60, 62

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"While the supervision of children's reading may best be left to their parents, the knowledge that parental control or guidance cannot always be provided and society's transcendent interest in protecting the welfare of children justify reasonable regulation of the sale of material to them. It is, therefore, altogether fitting and proper for a state to include in a statute designed to regulate the sale of pornography to children special standards, broader than those embodied in legislation aimed at controlling dissemination of such material to adults." — *People v. Kahan*, 15 N.Y. 2d 311, 206 N.E. 2d 333 (concurring opinion by Judge Fuld).

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## **Commission on Obscenity and Pornography Technical Reports**

The Office for Intellectual Freedom has received two additional volumes of the *Technical Reports of the Commission on Obscenity and Pornography*. (Previous volumes are cited in the November, 1971 *Newsletter*, p. 141.) The Reports are available from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C., 20402. The volumes, titles, stock numbers, and prices are as follows: v. 7, *Erotica and Anti-Social Behavior*, #5256-0008, \$1.50; v. 8, *Erotica and Social Behavior*, #5256-0009, \$3.50.

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"The function of news must . . . be to inform the society about these problems, not to solve them. The society must solve them, and it can only solve them if informed about them — which it may resent." — Reuven Frank, President of NBC News.

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## On The Sex Education Front

In December, the New Jersey Superior Court Appellate Division delivered a significant opinion concerning efforts to ban sex education in public schools. In a suit brought by Mr. and Mrs. Richard Preston and Mr. and Mrs. William Hedden against sex education classes begun in Westfield, the court ruled that parents have the right to bypass state and local education agencies and ask the courts to ban sex education.

The appellate decision reversed a lower court ruling which dismissed the suit on the grounds that the parents had not exhausted all appeals under state law, through the local board of education and the state department of education. In overturning the dismissal, the appellate court said, "The issues posed are of constitutional dimension and have generated strong feelings on both sides throughout the state. Their speedy resolution is in the public interest. . . ." (Reported in: *Trentonian*, December 11.)

In nearby Mexico, N. Y., Thomas L. Fitzgerald, a substitute health teacher, claimed he was fired for teaching sex education to junior high school students. Fitzgerald said he followed a state-approved health class syllabus but learned too late that parents had previously complained about the sex education portion of the program. School Board President Hobart Backus refused to comment on the dismissal but, reportedly, Fitzgerald will be replaced by a regular teacher and is being paid to the end of the term. (Reported in: *New York Post*, December 1.)

Meanwhile, a sex education project in Montgomery County, Md., received criticism before it even got off the ground. The board of education received a letter from Citizens United for Responsible Education (CURE) protesting the teaching of contraception and abortion in county schools. The supervisor of health, Dr. Robert Schneider, said the subject is not being taught now, but it is planned to provide the information through videotape, which would require board approval. CURE emphasized the primacy of parental rights in the field of sex education and said that state standards require such subjects to be offered in identifiable courses for which students must have prior parental consent. (Reported in: *Silver Spring Suburban Record*, December 31.)

Adding further fuel to the fires of anti-sex education forces is the unnamed 28-year-old physical education teacher who filed a \$100,000 lawsuit against a sex education group. She says she was ordered by her employer, a private school in Virginia, to attend a sex education class in 1970, and the experience made her frigid. She filed suit against the American Association of Sex Education Counselors, sponsors of the class, charging "invasion of privacy." The source of her prob-

lem was the use of physical contact which she found contrary to her mores, morals and upbringing. She says that, as a result of the experience, she had to leave her school, seek the care of a psychiatrist, and now has become totally frigid. (Reported in: *Washington Star*, November 30.)

Another private group, the Unitarian Church West of Brookfield, Wis., became the target of harassment when it undertook a sex education program for teenagers. Waukesha County District Attorney Richard B. McConnell threatened to enforce the state's anti-obscenity statutes unless he is allowed to set up what he calls "guidelines" for the course. He insisted on reviewing course materials, written matter, and films. Trustees of the church voted unanimously to reject McConnell's demands. (Reported in: *Chicago Tribune*, January 13.)

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"It is time somebody said that the Fairness Doctrine is unfair; not to us, because that doesn't matter, but to the public." — Reuven Frank, President of NBC News.

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## Studies and Surveys

### Obscenity and pornography

(Opinion Survey.) *Bloomington, Ind.* The latest National Campus Opinion Survey reveals that a majority of college students feel that pornography has a harmful effect on society. In mid-December, interviewers for the Campus Opinion Poll surveyed 1,003 college students attending 46 schools throughout the country. When asked how they felt about the effect of pornography on society, 46.9% of the students replied, "somewhat harmful"; 6.3% responded "very harmful." When asked, however, if they favored or opposed increased censorship of questionable movies, magazines, or books, 74.3% said they would oppose it. Only 17.4% said they would favor such an increase. Graduate students were less apt to call pornography harmful than were undergraduates. Even among undergraduates, attitudes about pornography were more permissive among upperclassmen than underclassmen. Reported in: *Chicago Tribune*, January 24.

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"One criticism we often get is for allegedly paying too much attention to vociferous minorities . . . This may be truer than we have admitted with respect to one minority no critic has mentioned — himself. . . ." — Reuven Frank, President of NBC News.

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# B.U.L.L.



## Awards

### Bent Upon Losing Liberty

## March Award

[Realizing that such well-established "honors" programs as Esquire's annual Dubious Achievement Awards and Laugh-In's Flying Fickle Finger of Fate cannot be expected to focus on our particular area of concern, the Newsletter hereby initiates the bi-monthly BULL (Bent Upon Losing Liberty) Awards to recognize all those who, through their ceaseless efforts on behalf of one cause or another, prove they are Bent Upon Losing Liberty.]

To: Rev. Carl McIntire who sent a telegram to NBC criticizing what he called the network's plan to include "Chairman Mao's Thoughts Sung at a Pageant" on a Christmas Eve broadcast. Rev. McIntire told NBC the plan was "an insult and an outrage to millions of Christians in this country." An NBC spokesman said the segment is part of a special festival of children's programs from Europe and Asia. "There is a short clip of a Chinese girl singing. We don't know what she's singing because it is in Chinese." (*Philadelphia Inquirer*, December 23.)

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## Surprise!

The Minnesota Supreme Court ruled that a photography studio employing nude models to be photographed by customers is not protected by the First Amendment. The decision upheld convictions of the Majesto Studio manager and three models. Reported in: *New York Times*, January 3.

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

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## It Can't Happen Here

According to *Long Island Press* Reporter Karl Grossman, Nazi activity has re-surfaced on Long Island and includes hate literature, swastika armbands, bravado, and threats of terror. Grossman attributes the resurgence to the newly formed Nassau-Suffolk division of the National Renaissance Party (NRP), "an outfit run out of a basement in Yorkville." He also cites the National Socialist White People's Party (NSWPP) (formerly George Lincoln Rockwell's American Nazi Party) and the National Youth Alliance.

The groups recently launched a new tactic—"a demand, supported by threats," that a Long Island library carry "pro-Aryan" books. At a January 12 meeting of the Trustees of the Bayshore-Brightwaters Public Library, representatives of the NRP and NSWPP asked to have two books put in the library: *Imperium*, by Francis Parker Yockey, citing danger to the world's white community from nonwhite groups; and *Lincoln's Negro Policy*, a collection of quotations from the President, some of which mention sending Negroes out of the country.

Members of the Jewish Defense League were also present at the meeting.

After deliberation, the trustees voted unanimously to refer the books to the Suffolk Cooperative Library System because "they do not meet the criteria of the library's book selection policy."

On January 21, 1972, Guenter A. Janson, Director of the Suffolk System, issued a statement saying: "No decision as to whether to stock or not to stock these titles has been made. . . . The Suffolk System does propose to establish a Last Copy Retention Center, when adequate funds become available. At the moment there are no funds in sight, and we have determined that at least \$15,000 per year is required to properly establish and maintain such a center. Furthermore, there are other possible services deemed to be of higher priority by recent vote of our Member Libraries. In the interim, however, we are receiving from our Member Libraries any number of books which they are sending us as candidates for this Last Copy Collection. Without evaluation, most of these books are being stockpiled for future examination and possible selection. . . . If so retained, these two books then will be available for interlibrary loan purposes throughout the county . . . ." JAH

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**NEWSLETTER ON INTELLECTUAL FREEDOM**  
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