


newsletter
on
intellectual
freedom



IFC ALA

Co-editors: Judith F. Krug, Director, Office for Intellectual Freedom, American Library Association,
and James A. Harvey, Executive Secretary, Illinois Library Association

January, 1973 □ Volume XXII □ No. 1

Pushmi-Pullyu: The U.S. Supreme Court

Twelve months ago, assessing 1971 "with hindsight," we sagely predicted that a Supreme Court four-deep with Nixon appointees, led by Chief Justice Warren Burger, would surely be unpredictable, if anything, when dealing with First Amendment cases or other issues touching on intellectual freedom. Our Ouija board was certainly picking up the right vibrations. Acting with all the agreement of Dr. Doolittle's two-headed Pushmi-Pullyu, the Court produced a best-of-years-worst-of-years record in its attempt to find a meeting of its conservative and liberal minds. Justices Blackmun, Powell, and Rehnquist, with the aid of Chief Justice Burger, were reliably conservative; Justices Douglas, Brennan, and Marshall were reliably liberal; Justice Stewart took a noticeably liberal turn in some key 1972 decisions, while the ninth Justice – Byron White – was the principal swingman, plumping unpredictably on left and right, to determine the inconsistent majority in many decisions.

First, the good news. In surprising unanimity, in the domestic security wiretap case, *United States v. United States District Court*, the Court decided in favor of intellectual freedom. The case concerned the Nixon Administration's assertion of power to engage in wiretapping and eavesdropping, without prior judicial approval, of persons whom the Attorney General thinks are a threat to the nation's domestic security. At question was the necessity for a search warrant to allow such eavesdropping to be carried on, and the Court held that eavesdropping without a warrant is unconstitutional. (Justice Rehnquist disqualified himself because he had participated in establishing the program while in the Justice Department.) In the opinion, Justice Powell noted, "The price of lawful public dissent must not be a dread of subjection to an unchecked surveillance power. Nor must the fear of unauthorized official eavesdropping deter vigorous citizen dissent and discussion of government action in private conversation. For private dissent, no less than open public discourse, is essential to our society."

In another show of unanimity, the Court ruled in *Healy v. James* that the refusal of a state college to grant recognition to an SDS chapter, because SDS had a reputation for violent conduct, violated the First Amendment. In *Gebhard v. United States*, the Court interpreted the 1968 Omnibus Crime Control and Safe Streets Act to forbid the use of information secured through wiretapping as a basis for interrogating federal grand jury

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

1972:

Looking
Backward . . .
and
Backward

Titles Now Troublesome

Movies

<i>Art of Marriage</i>	p. 15
<i>Blackula</i>	p. 13
<i>Climax</i>	p. 19
<i>Danish and Blue</i>	p. 15
<i>Das Dreinek</i>	p. 19
<i>Distortions of Sexuality</i>	pp. 14, 19
<i>Everything You Always Wanted to Know About Sex but Were Afraid to Ask</i>	p. 12
<i>Hot Circuit</i>	pp. 14, 19
<i>Keep It Up</i>	p. 15
<i>Little Sisters</i>	p. 19

<i>Ranch Slaves</i>	p. 15
<i>Shaft</i>	p. 13
<i>Southern Comfort</i>	p. 15
<i>Superfly</i>	p. 13

Books

<i>Blue Book</i> (John Birch Society)	p. 11
<i>Dynamite Voices</i>	p. 11
<i>Erection Set</i>	p. 10
<i>Go Ask Alice</i>	p. 10
<i>Human Sexual Response-Ability</i>	p. 12
<i>Learning Tree</i>	p. 20
<i>Slaughterhouse Five</i>	p. 10

<i>Speaking For Ourselves</i>	p. 11
<i>The Inner City Mother Goose</i>	p. 11

Periodicals

<i>Corn Cob Curtain</i>	p. 20
<i>Daily Bruin</i> (UCLA)	p. 12
<i>Daily Oklahoman</i>	p. 13
<i>East Kentucky Voice</i>	p. 13
<i>Little Magazine on Urbanism and Planning</i>	p. 13

Television

<i>In Cold Blood</i>	p. 19
<i>Maude</i>	pp. 13, 19
<i>That Certain Summer</i>	p. 13

witnesses. Justice White cast the swing vote in this 5-4 decision.

In a case with even more important repercussions for intellectual freedom, Justice White also cast the deciding vote, resulting in a 5-4 ruling against Senator Mike Gravel in *Gravel v. United States*. The Alaskan Senator introduced the *Pentagon Papers* into the public record by reading them to a specially convened meeting of his Subcommittee on Buildings and Grounds. He subsequently had them delivered to Beacon Press for publication. As part of the federal investigation of the original release of the papers by Daniel Ellsberg, a Gravel aide was subpoenaed to appear before a Boston grand jury. The aide refused to testify and Gravel intervened, asserting the Speech and Debate Clause of the Constitution in his aide's defense. The general question before the Court was whether the Senator's immunity extends to his aides. The Court held that it does, but that an aide is not immune from being questioned about matters "relevant to tracing the source of obviously highly classified documents that came into the Senator's possession . . . as long as no legislative act is implicated by the questions." As ACLU attorney Melvin Wulf points out, "The right to engage in the legislative process free of threats of criminal sanctions is dangerously diluted if a member of Congress must answer to the Executive Branch about how he has secured information critical to the exercise of his duties."

In another important case for intellectual freedom, *Branzburg v. Hayes*, Justice White again cast the vote that tipped the balance. *Branzburg*, decided concurrently with two other cases, involved the question of whether grand juries can compel newspaper reporters to testify in detail

about the sources and further facts of published news stories. Branzburg had published information describing allegedly criminal conduct — the manufacture and use of illegal drugs. The other two cases involved newspaper articles about the Black Panthers. In its decision, the Court agreed with government prosecutors that reporters have the same duty as other citizens to respond to questions about criminal acts.

A decision of particular import to libraries and librarians was actually a "nondecision." The Court refused to grant *certiorari* in an appeal of a Federal District Court decision allowing a ban on Piri Thomas's *Down These Mean Streets* to stand in New York's Community School District No. 125. The community board banned the book nearly two years ago, leaving it in the school, but accessible only to parents, not to students. The New York Civil Liberties Union challenged the ban on behalf of librarians, teachers, parents and students in the community. In effect, the Court's denial of *certiorari* lets stand the community school board's ultimate responsibility for materials selection. That can be a good thing if a board is *defending* selected materials; however, in this case, the board was removing a specific title. The Court refused to consider the question of discretionary authority in violation of the First Amendment. Justice Douglas filed a strong dissent in the decision not to grant *certiorari*, reportedly an unusual action in such a case.

As pointed out by Haig Bosmajian in *Free Speech*, Justice Douglas was the Court's "great Dissenter" this past term, having written forty-three dissents, breaking his own 1952-53 record of thirty-three. Several were related to

First Amendment rights, especially freedom of speech. Dissenting in *Laird v. Tatum*, in which the Court decided against citizens challenging the Army's practice of surveillance of civilian political meetings and activities, Justice Douglas said, "The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. The aim was to allow men to be free and independent and to assert their rights against government. . . . When an Intelligence Officer looks over every nonconformist's shoulder in the library or walks invisibly by his side in a picket line or infiltrates his club, the America once extolled as the voice of liberty heard around the world no longer is cast in the image which Jefferson and Madison designed, but more in the Russian image. . . ."

The Court's most crucial opinions regarding freedom of the press are yet to come, scheduled for early 1973. These involve obscenity and pornography and the controversial "three-pronged test" which still includes among those works constitutionally protected anything that has "redeeming social importance" and that does not go beyond "community standards" in taste and candor. Both the "redeeming social importance" test and the "community standards" test are under challenge in the cases before the Court. The ultimate decision may well depend upon Justice White. His track record for 1971-72 leaves little room for optimism.

In a post-election interview with the *Washington Star-News*, President Nixon vowed to work to end "the whole era of permissiveness" and to nurture "a feeling of responsibility, a new feeling of self discipline." Although incongruous if not contradictory, it's possible that the Nixon Court will adopt his philosophy that, "The average American is just like the child in the family. You give him some responsibility and he is going to amount to something. He is going to do something. If, on the other hand, you make him completely dependent and pamper him and cater to him too much, you are going to make him soft, spoiled and eventually a very weak individual." To some, it seemed that the Warren Court of the Fifties and Sixties had attempted to make citizens independent, particularly in the area of free speech. It will be interesting to see if the Burger Court/Nixon Court agrees or attempts to take back some of that freedom, like an angry parent rebuked by a child, nurtured in freedom, resentful of being told he has abused it. It will be equally interesting to see how those "children" used to freedom react to restrictions imposed in the name of "responsibility."

The Battle of the Books: 1972

To those convinced that life follows a circular course, the list of materials initiating the greatest number of

complaints in schools and libraries during 1972 will provide some surcease. Cover-and-cover at the top of the list are two titles from last year's list: *The Inner City Mother Goose* and *Catcher in the Rye*. These are followed by a number of books which have been around for some time: *Manchild in the Promised Land*, *Down These Mean Streets*, *Catch 22*, *Brave New World*, *Black Like Me*, *To Kill A Mockingbird*, *Flowers for Algernon*, *the Electric Koolaid Acid Test*, and a newcomer — a film — the movie based on Shirley Jackson's short story and play, *The Lottery*. This list is based on the more than one-hundred reports carried in the *Newsletter* over the past year. While they are not conclusive, they offer some interesting observations, chiefly that there's nothing new under the censor's sun.

As with last year, a handful of books — mostly the titles listed above — accounted for nearly half of the reported complaints. A scanning of the total list of books, numbering well over one-hundred, evinces the following "patterns": books by and about blacks were complained about in number (*The Learning Tree*, *Lilies of the Field*, *Soul on Ice*, *Coming of Age in Mississippi*, *To Sir With Love*, *Daddy Was a Number Runner*, *Black Voices*, and on and on, including even *To Kill A Mockingbird*); books about or for youth were a favorite target of the censor (*Lord of the Flies*, *We Are the People Our Parents Warned Us About*, *Wild in the Streets*, *Love Story*, *Sex Before Twenty*, etc.); some classics and near-classics still suffer from familiarity (*The Sun Also Rises*, *1984*, *Lysistrata*, *Huckleberry Finn*, *Of Mice and Men*, *The Grapes of Wrath*, *Gulliver's Travels*, etc.) and a number of recent bestsellers have already become common targets for the censor (*Last Summer*, *The Exorcist*, *Boss*, and *The Affluent Society*, among others). JAH.

On the Sex Education Front

An organization called the Modern Social Education, Inc., opened operations in East Baltimore at the meeting hall of the Maryland Adult Sex Education Club, with Richard Kivert as president. According to Kivert, the club will conduct debates, invite speakers, hold marriage counseling sessions, show films, sell books, and conduct research on sexual matters. Almost immediately upon opening, the club filed suit in federal court asking for an injunction to bar police harassment and arrest or seizure of materials. Reported in: *Baltimore Sun*, November 28.

Viewpoint: A Flip of the Censorship Coin

by William Gilman

William Gilman, author of The Language of Science: a Guide to Effective Writing (Harcourt, Brace & World) and three other books, has also held editorial positions with Popular Science, Product Engineering and Natural History magazines. He has extensive newspaper experience and won the U.S. Navy's "Commendation for Outstanding Performance as a War Correspondent" during World War II.

Because the mere word "censorship" rankles, it should be no surprise that official censorship is exposed and upbraided regularly. But, what about *non-governmental* censorship that nonfiction writers encounter when their books treat sensitive sociopolitical issues in a fashion offensive to a publisher's interests?

In such instances, our free-enterprise system is — at present — weighted against the author, no matter how authentic his facts and persuasive his prose. While a publisher confronted by government censorship can invoke the First Amendment right to publish, the same constitutional guarantee leaves no recourse for an author muzzled by a publisher.

Because I know the case well, I shall illustrate my point with the censorship that arose against what were broadly called "the political parts" of my latest book, *Sharp Language*. It's an apt example for two other reasons. First, I was offering consumers of information an irreverent inspection of various communication methods that broaden the gap called "credibility." And second, when submitting my sample chapter, I explained that the same "gloves-off" language would be used throughout the work, thus giving the publisher an escape: he could reject the proposal with a so-sorry note. Instead, he contracted for the book, a book that documents the gamut from hidden persuaders to censorship and outright lying. And, reportedly, the accepted book subsequently became strangely unacceptable.

My experience is not a lone example. Harvard University Press dropped the possibly controversial book *The Double Helix*, reportedly on orders of Harvard's president and trustees.¹ A political book, *The Drugstore Liberal*, was dropped by McGraw-Hill "amid reports of White House pressure."² Or, consider the experience of Madison Avenue

veteran Samm S. Baker whose Funk & Wagnalls' book, *The Permissible Lie*, swarmed with proof that dishonest huckstering is allowable when it helps sell a product. The accepted book was later dropped by Reader's Digest Association, which has swallowed Funk & Wagnalls.³ Why? Because it was "against the best interest of Reader's Digest magazine" (formerly bare of advertising but now selling \$60 million worth of ads annually).

As illuminating, in another way, was the fuss over *The Death of a President*, which reached the public only after Harper & Row cut political implications considered undesirable by the Kennedy family. Here, to be sure, the author was not quite a martyr. In exchange for cooperation on what certainly would be a bestseller, William Manchester signed over to the Kennedys the right to censor.

My book, too, was written for Harper. But similarity ends there. I was totally independent and rejected censorship that would have reduced my book to a ramble of amiable tales, such as how the word *bloody* became acceptable to Britain's queen. Gone would have been a semantic passage concerning Martin Luther King, relating how this martyred moderate unsuccessfully sought a term more useful than "Negro," but without the apartheid implications of "black." Why did Harper object? Because, I learned later, Harper's sales people feared offending a portion of the black community, thereby costing a potential 40% of black readership. To paraphrase Kurt Vonnegut, cash registers were protesting.

In general, of course, I was not privy to discussions at Harper about what should be removed from *Sharp Language*, and why. Only battering questions in court might unravel the details. At any rate, Manchester's purged book was published by Harper. At the same house, my resistance to censorship cost me publication of a book over which I labored three years: researching, writing, and continually revising to meet my standards — labor that brought the final installment of advance royalty. To me, that testified, in the words of the contract, that I had produced "a complete manuscript satisfactory to the Publisher."

But times change. Harper was added to the book publishing segment of the Cowles communications empire, the kind of conglomeration that increasingly confronts authors with an assortment of sacred cows, changing editorial policies, and conformable editors. My book's so-called "political parts," although in context, were out of step. Without mentioning Cowles or even thinking specific-

1 **Science** (American Association for the Advancement of Science) February 23, 1968.

2 **New York Times**, July 19, 1968; September 6, 1968.

3 **Saturday Review**, August 19, 1968.

ally of their far-ranging interests, I had written a book that demonstrated a loss of integrity in book and encyclopedia publishing, newspaper publishing, magazine publishing, and commercial broadcasting. To do so was seemingly impolitic and insensitive.

In due course came indications that *Sharp Language* was in jeopardy. Harper was assigned financier Winthrop Knowlton as executive vice-president. He brought in a friend to head Harper's "Trade Complex." Next came the abrupt departure of the editor with whom I had cooperated on a professional basis; who had written my literary agent, "I must say he is good to work with"; and who would be shepherding the book through to publication in the fall of 1970. I was now to deal with a replacement supplied by Harper's "Mail Order Department."

First he took me to lunch and tried cajoling: "We only want to make the book better, to sell many more copies." Accordingly, he hoped I would weigh the suggestions he was relaying to me. I asked to see them in writing. We parted amicably, still on a cajoling note. "After all, it's your book," said my conferee. He had already offered a choice. I could do the slashing, or authorize Harper to do so ("Many of our writers let us do it"), or do nothing, at the cost of fewer copies being sold.

Written "suggestions" arrived and, with them, unveiled censorship. There were no longer options. I was informed that I "must" and "will have to" agree to purging. I balked, bringing the threat that only if I complied could the book be published, our contract notwithstanding. I refused to make any but standard minor changes in such chapters as "The Misleaders and the Mised," "The Protocols of Lying," "Ah, Sweet Euphemy," and "Of Prudes and Pimps" (which demonstrates that intellectual obscenity is more indecent than the pornographic kind).

My refusal was expensive. It left me hunting for another publisher and Harper laying claim to its advance royalty of \$3,500, an incommensurate sum I had contracted to accept only because I considered it a token of Harper's good faith. I ignored their claim, partly because the Authors Guild was on record as condemning "the pernicious practice of recoverable advances," but mainly because returning the advance would compromise me. If I went to court to test censorship by a publisher, Harper's attorney could contend that return of the royalty was acknowledgment that I, not Harper, was to blame. Wrangling over the royalty side-issue would then divert attention from censorship, the basic issue. Not that I wanted to wage a court fight. Even if an attorney was not expensive, litigation would be costly in time lost for writing the new book I had in mind. Furthermore, I was not certain about my rights.

My experiences in 40 years as writer and editor had

been elsewhere in the area of restrictions upon free expression. As a cub reporter, insisting on "the right to know," I had been beaten up by a politician's goons. As a magazine writer during a spy-scare period, I refused to surrender innocuous photographs and was deposited in jail until the FBI entered the case and vouched that I was no enemy agent. Other times, my defense of journalism's rights was more pleasant — for example, the exhilaration from winning a libel suit brought against a magazine and me in reprisal for publishing the miscarriage-of-justice article, "Why President Roosevelt Saved This Prisoner's Life." And, tangle-footed censorship could be outright comical. In World War II, I sent an innocuous feature story directly from battleship to Washington's censors rather than route the prescribed five copies back to three rival sets of censors in the Aleutians. For this I was stripped of my war correspondent credentials, but then arrived a Defense Department "Commendation for Outstanding Performance." My adversary in all these affairs was officialdom. Not until 1970, with my fifth book, was I seriously threatened by unofficial trespass on my right to be an independent, libertarian writer. *Sharp Language* presented no possible problem of libel, military security, or pornography. My only problem was censorship, and Harper's unaccepting the accepted manuscript made the censorship the more brazen.

After a half year of frustrating skirmishing with Harper, I saw no alternative but to publicize the issue. My first thought was the American Civil Liberties Union. Here, surely, was its opportunity to pioneer, to challenge censorship by publishers. I decided to acquaint two of ACLU's most prominent anticensorship attorneys with the affair. To my surprise, both were affiliated with a law firm that worked for Harper! However, I had by now written directly to Melvin L. Wulf, director of ACLU's legal department. Another surprise was his crisp verdict. ". . . To impose upon a publisher to publish any book, or to require him to publish specific content, would merely be the negative side of the coin."

Perhaps so, but I wondered. Should a publisher's constitutional right not to publish be cherished above the right of a writer not to be muzzled? Would a flipped coin always show only the "merely . . . negative side"? Why ignore the positive side — my book's free-expression rights?

Then something about coin-flipping reminded me of the justification that Cowles' censors offered when they joined in slashing Manchester's book and its serialized excerpts in *Look* magazine. Their logic would have provided splendid material for Orwell or Swift. To Cowles, censoring cleared the way to publication; without censorship the book would

(Continued on page 22)

Let Me Say This About That

A Column of Reviews

Freedom versus Suppression and Censorship; With a Study of the Attitude of Midwestern Public Librarians and a Bibliography of Censorship. Charles H. Busha. *Libraries Unlimited*, Littleton, Colo., 1972. (Research Studies in Library Science, No. 8) n.p.

Many librarians and library school faculty members have long recognized the need for a definitive work covering the many facets of intellectual freedom and censorship from a library point of view. The only monograph published on these topics with a slant toward librarianship in a number of years has been Marjorie Fiske's *Book Selection and Censorship* (Berkeley, University of California Press, 1959). While there have been several collections or anthologies of articles reprinted from journal literature, i.e., Eric Moon's *Book Selection and Censorship in the Sixties* (New York, R.R. Bowker, 1969), no separate books devoted to problems of library censorship have been available.

Busha, an Indiana University Graduate Library School faculty member, attempts to cover a neglected area by providing both general information on problems of suppression and information control, as well as reliable and valid data obtained from survey research. Indeed, *Freedom versus Suppression and Censorship* represents one of the few published monographs written by an American librarian on the topic of the repression of information; consequently, it is a welcomed addition to the literature.

In view of Supreme Court Justice William O. Douglas' recent statement before the American Bar Association that the protection of the Bill of Rights of the United States Constitution should be one of the chief concerns today of American citizens, this book has undoubtedly appeared at an appropriate time. It is an outgrowth and logical extension of the author's research into the attitudes of Midwestern public librarians toward censorship. Major conclusions of that investigation were reported in the September, 1972 issue of the *Newsletter on Intellectual Freedom* (pp. 103-4) and in the July, 1972 issue of *The Library Quarterly*.

In this book, which consists of eight chapters, the author has expanded his doctoral dissertation by providing five new chapters; he has also supplemented his earlier research report with an extensive, partially annotated bibliography

of censorship. The book is divided into three parts: *Part I*, "Repressions and Freedoms," devoted to such topics as abuses of the federal government's information classification system, the civil liberties movement, protection of "law and order" as opposed to protection of individual rights, the nature of censorship, incidents of censorship in libraries, the Bill of Rights, book selection in public libraries, and the challenge with which external and internal suppression and censorship in libraries confronts the profession; *Part II*, "Attitudes of Midwestern Public Librarians toward Intellectual Freedom and Censorship: A Study," a completely revised and more readable version of the report of the author's original research; and *Part III*, "Bibliography of Censorship 1959-1971," lists and provides annotations for significant books, dissertations, and reports, as well as journal articles and a list of library science master's theses on the subject.

The anti-censorship bias toward problems of external and internal suppression in *Part I* is seemingly the result of the author's strong hostility to authoritarianism and his advocacy of freedom and individual rights. Some readers will probably find Busha's cause as discussed in *Part I* a bit overstated; on the other hand, they will welcome the calm, careful approach which he takes in the report of his research covered in *Part II* of the book. From an examination of the author's research methodology, it is apparent that all steps of the opinion survey were taken with objectivity, necessary in any research if reliable and valid data are to be collected and analyzed. Busha points out that his investigation was primarily exploratory, and indeed, his work provides a sound floorplan which will enable (and most probably greatly facilitate) future investigation into library censorship problems.

Despite Dr. Busha's rather emotive — albeit logical and well-documented — arguments against censorship and the control of information, some librarians, who feel less committed than the author to defending principles of intellectual freedom as outlined, as well as advocated by the American Library Association, are likely to espouse a more conservative, conventional approach than the one offered in this book. However, in my opinion, Busha's book will stand for many years as a sound, philosophical statement of the ideal stance which librarians ought to take in respect to the dissemination of all types of communication media and the information and ideas contained in them. —Reviewed by Dorothy M. Kibler, Reference Department, University of Iowa Library, Iowa City.

(Continued on page 20)

Report On The Report

A Series* of Reviews on the Technical Reports of the Commission on Obscenity and Pornography

Volume IV: The Marketplace: Empirical Studies (Technical Report of the Commission on Obscenity and Pornography) USGPO, Washington, D.C. \$2.25. Stock Number 5256-0005.

Reviewed by Paul B. Cors

Mr. Cors, Chief of Technical Processing, University of Wyoming Library, is a member of the ALA Intellectual Freedom Committee.

This volume reports the findings of six studies of the retail pornography trade and its customers:

(1) Denver, studied from an economic point of view by a group directed by Morris E. Massey, University of Colorado;

(2) Boston, studied primarily from the legal viewpoint by a team directed by M. Marvin Finkelstein, Boston University;

(3) a sociologically-oriented study of the trade in San Francisco directed by Harold Nawy, California State College, Hayward;

(4) a comparative study of ten areas by Charles Winick, City College, New York;

(5) another study by Winick of adult movie patrons in five of the cities included in the larger study; and,

(6) for possible contrast in an open milieu, some observations on Copenhagen by Berl Kutschinsky, University of Copenhagen.

Since all studies yielded essentially the same results, with differences being of degree rather than of kind, the findings can be summarized collectively rather than abstracting each paper separately.

The Trade

Retail distributors of pornography, whether bookstores

*This series results from the ALA Intellectual Freedom Committee's discussion of the **Report** of the Commission on Obscenity and Pornography. Each of the nine technical reports has been analyzed by members of the Committee and the nine individually authored reviews will appear in the **Newsletter on Intellectual Freedom**.

or theaters, show negligible geographical variation. They are generally found in the central part of large cities, close enough to central business districts to be readily accessible from major office buildings, hotels, and public transportation, but in fringe areas where there has been enough urban decay to produce low rents and some tolerance for not quite respectable enterprises, but not so much decay that fear of muggers or panhandlers will discourage potential customers. Topless bars and strip joints are likely to be immediate neighbors, but houses of prostitution are seldom in the same area, though they may be nearby. Skid Row may also be nearby, though its denizens are not likely to be customers. Although the theaters almost invariably, and the bookstores usually, deal exclusively in pornography, a few theaters were noted which schedule mostly regular commercial films with an occasional program of adult films. A somewhat larger number of general bookstores do a substantial business in pornography, but in deference to the sensibilities of customers — both for general books and for pornography — the pornographic material is usually in a separate, clearly demarcated area, not intermixed with other publications.

Though neither theaters nor bookstores do much advertising, beyond a general listing in the yellow pages that does not indicate the type of theater or store, they are usually easily identifiable to potential patrons by displays visible from the sidewalk. Ostentatious "Adults Only" signs at the entrances are another common means of identification. A peculiarity of the bookstores is that they frequently have no name. Physical facilities range from passable to squalid, but are seldom luxurious. Bookstores are likely to evidence more than ordinary precautions to discourage shoplifting, such as placing cashiers on elevated platforms from which they may survey the premises; mirrors; and even closed-circuit television in a few larger stores. Square footage of stores and seating of theaters vary so much that no average can be stated for either.

The bookstores' main stock is not books, but magazines comprised of photos, with little or no text. Well over half the stock of the average store is devoted to these publications. Paperbound books are the second most important item (generally well illustrated, and of low reading difficulty), followed by collections of photos. Most stores stock some films (usually 8mm or super 8, occasionally 16mm) for home viewing. Facilities for previewing may or may not be available on the premises. Hardbound books and phonorecords are minor items, not carried by all stores. Sexual appliances and nostrums may be sold as a sideline, especially in Copenhagen, but are not found universally.

The content of the material ranges from mild girlie and

sunbathing magazines to the most complete, explicit, pictorial material, though most stores in this country are not likely to have the most explicit material on open display. Heterosexually oriented items strongly predominate, but a small amount of homosexual material is likely to be stocked. Only in San Francisco were stores noted that specialize in homosexual material and carry no heterosexual matter at all. Material concerned with sadism, pedophilia or bestiality is a minor part of the stock, and some dealers prefer not to carry it at all.

The vast majority of theaters show only heterosexual material, but a few, again only in San Francisco, show exclusively homosexual films. The films do not seem to reach the level of explicitness of some printed material, nor to deal with sadism, pedophilia or bestiality at all. "Stags" produced for private showing do get into areas that theatrical films avoid, however. In general, the range of cinematic material is narrower than the average bookstore's stock.

Most retail outlets are independent, locally-owned, small businesses except in Boston, where there seem to be patterns of chain operation with close financial links to the wholesalers. No clear patterns emerge as to the kind of person who owns such businesses. In fact, researchers were often unable to identify real owners; ostensible proprietors may only be fronting for a silent partner. Skill at business procedures, especially inventory control, is rarely evident. Few stores or theaters had been in business — overtly, at least — for any length of time, but no statistics on rate of failure could be compiled.

All U.S. owners and managers agreed that New York and Los Angeles were their main sources of supply, though there is a variation in buying, some dealers going direct to publishers, others working via wholesalers. Imported items are not important, though bookstores may carry some Danish items, presumably because they have "snob" appeal. There is no real evidence that Danish producers are turning out anything that American producers cannot match.

Not surprisingly, the figures on volume of business are fragmentary and unreliable, as most retailers either refused to divulge this information or were obviously falsifying. However, prices are very high; Massey notes, for example, that if *Playboy* cost as much per page as the average pornographic periodical, it would average \$48-50 per issue. Observed sales volume, on the other hand, was low, so even though the mark-up is high, pornography may not be a particularly profitable business.

Clerks and ticket-sellers are predominantly male, 21-30 years old, and likely to be in the dropout/drifter category. Poor pay, lack of employee benefits, and risk of arrest all lead to high turnover. There is nothing to suggest that they are drawn to the pornography trade because the nature of the merchandise appeals to them. On the other hand, few

claim to conceal the nature of their work from their non-business associates.

No evidence was found linking the retail end of the trade to organized crime, though both owners and employees are likely to have a record of arrests for minor offenses other than violations of anti-pornography statutes. Incidence of sex offenses is not statistically different from the adult male population as a whole, however.

The Customer

The pattern in every city surveyed, including Copenhagen, is monotonously similar: bookstore and theater patrons differ little from one another. The consumer of pornography is generally a white male, age 26-45, fairly well-educated (high school graduate, and probably some college), middle class, and usually married. Nawy suggests, and the statistics tend to confirm, a close correlation between use of pornography and upward social mobility, from a group with strong sexual taboos to a group with less restrictive sexual attitudes.

In more detail, customers are 95-98% male. Though surveys tend to show a percentage of whites greater to a statistically significant extent than their percentage in the total population, this may be a case of reporters' bias — since the study teams apparently were predominantly, if not totally, white. Nobody seems to have considered whether the pornography industry may be segregated, with ethnic outlets in ghettos or barrios serving minority groups. Certainly the models depicted in the photos and films inspected were almost entirely white, which may tend to turn away non-white customers. The question of a racially segregated distribution pattern in the pornography business needs to be investigated further before it can be stated unequivocally that it is a white man's preoccupation. The middle class nature of the customers, while based on somewhat subjective considerations of dress and general appearance, seems sound. Marriage statistics are based primarily on incidence of wedding rings, and are not very conclusive, though the interviews with theater patrons in the second Winick study do confirm that at least a majority (how large a majority is debatable) of pornography consumers are married.

Since age is of great interest, as the opponents of pornography commonly cite as a reason for suppression the "fact" that pornography corrupts youth, it is notable that youthful patrons are almost non-existent. The 21-25 age group had trivial representation, and customers under 21 simply do not exist — even in Denmark where the legal age for purchasing pornography is 16. By far the majority of patrons are in the 26-45 age group, with a median of about 36.

Most patrons of both bookstores and theaters arrive alone, avoid social contact with other patrons and, as far

as possible, with proprietors and clerks. Many are visibly ill-at-ease, so much so that in general bookstores with a pornography section, they almost invariably feign an interest in some of the regular stock en route to and from their real objectives. Though presumably all theater patrons do actually watch the film, anywhere from 60-80% of bookstore patrons browse but do not buy. An undetermined percentage, however, steal, as all the stores reported a serious problem with shoplifting. Presumably, despite the high cost of pornography, embarrassment rather than penury is the primary motive for theft. Some stores ask — or order — the browsers to leave after a certain length of time; many seal their publications in plastic envelopes so that browsing is limited to the cover of a book or magazine or the top photo of a set; and, though none of the surveys noted an admission charge, one of the major Denver outlets (“Bookstore B” of Massey) has now instituted such a policy.

The most interesting question, doubtless, is what use these patrons make of pornography. Though the Denver and Boston studies did not seek to answer this question, and the samples obtained in the other studies (through questionnaires and/or informal interviews, the real intent of which was not revealed) are small, the implications are most fascinating. Like any other kind of printed matter or film, pornography seems to be enjoyed in and of itself, neither as a substitute for nor a stimulus to any other activity. Nawy hypothesized before the study that the typical user of pornography would prove to be a person who was for some reason temporarily or permanently unable to find a suitable sex partner, and had to resort to pornography as a substitute for sexual activity. But, his hypothesis was completely demolished by the evidence, for most of the San Francisco theater patrons who returned his questionnaire indicated that they were enjoying as much sexual activity as they desired, with their wives and/or girl friends. The Winick interviews yielded the same results, as did the study in Copenhagen. While a minority of pornography users did admit to using the material at least some of the time as a stimulus to masturbation on occasions when a partner was unavailable, almost none indicated that they ever used it as an adjunct to intercourse. Nor, did any admit to having much difficulty in finding a willing partner.

The picture, then, that has sometimes been presented of the pornography addict as a repressed sexual psychopath who will someday imagine himself to be Gilles de Rais or Casanova and embark on an orgy of rape and abuse, stimulated beyond control by his reading material, is absurd; one might as well suggest that the devotee of Western stories and films is a repressed homicidal maniac who will someday, driven beyond endurance by Zane Grey, imagine himself to be Jesse James or Billy the Kid and embark upon a career of bank robbery and murder. There

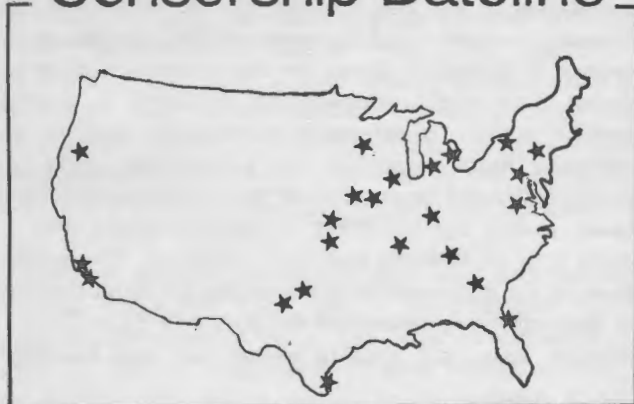
are rapists and there are mass murderers, but it seems utterly fanciful to suggest that they got that way by reading a magazine or watching a movie. On the other hand, the defense sometimes raised that pornography is socially useful because it provides a means for the sublimation of sexual desires that might otherwise be expressed in socially harmful activity is extremely questionable, and the occasionally heard suggestion that pornography ought not to be condemned because it is all the sex that some persons (poor souls!) are physically or psychologically able to enjoy is, if occasionally true, quite irrelevant. The implications of the enjoyment of pornography are about the same as those of the enjoyment of the poetry of Edgar Guest — dubious taste, but nothing to call for legal sanctions.

Public Opinion

Only in Denver and Copenhagen were efforts made to survey general adult community attitudes toward pornography, and in both instances the samples were too small and too skewed (toward the well-educated in particular) to be genuinely representative of the city as a whole. However, they do suggest a couple of points. First, most people (women only slightly less than men, interestingly, despite the fact that they so rarely enter pornography outlets) are aware of the location of the retail outlets in the community, and have a pretty fair idea of the range of materials vended therein; second, the overwhelming majority is quite without interest in the issue, one way or the other. Both regular users and determined opponents are small (how small is not clear, but quite small) minorities among a great majority who simply don't care.

This suggests that police chiefs, district attorneys and other public officials who launch “anti-smut crusades” in the belief (perhaps because the opponents are likely to be so loud that they seem more numerous than they are) that such activities have a broad basis of public support and will enhance the images and advance the careers of the crusaders, are wrong. If they can be convinced of this, they might be persuaded to devote more time to genuine social problems. On the other hand, there is probably also no reason to believe that efforts by intellectual freedom advocates to repeal or modify existing anti-pornography statutes, or to ameliorate unfairly harsh applications of them (as in the case of Ralph Ginzburg, for example) have any potential for widespread public support. It can be predicted that despite the pioneer work of the Commission, existing statutes will remain on the books, with gradually less rigorous enforcement (except for an occasional Ginzburg, unfortunately), for some time to come. Though the legalization in Denmark is hailed as a “social experiment,” the motivation appears suspiciously economic — to regain a favorable balance of trade — and no such economic imperative can presently be perceived in the United States.

Censorship Dateline



Libraries

Jacksonville, Fla.

After receiving complaints from the Conservative Citizens Council, headed by Warren H. Folks, a candidate for the state legislature, the Haydon Burns Library removed Mickey Spillane's best-seller, *The Erection Set*, from the collection. Reportedly, Folks complained to the city council after he saw a group of teenagers reading the book in the library. Council president Jake Godbold denied Folks an emergency meeting of the city council and accused him of wanting a hearing for political exposure before the November 7th general election. Godbold assigned the Council's Public Health Committee(!) to look into the matter and head librarian Harry Brinton removed the book after a conference with committee chairman David Harrell. Brinton said on reading the book he found the "language in poor taste." Library officials say *The Erection Set* is being given "serious review" by the staff. Other books, including those by Harold Robbins and Philip Roth, were reviewed and returned to circulation. Quite coincidentally, Spillane happened to be in Florida when the incident occurred. He said, "I was banned in Boston in those early days," referring to his book *I, the Jury*, twenty-five years ago, "But who ever heard of being banned in Jacksonville?" At last report, Folks was trying unsuccessfully to secure a warrant for the arrest of librarian Brinton. He was refused by a justice of the peace and the state's attorney's office. Reported in: *Jacksonville Journal*, November 1, 2; *Jacksonville Times-Union*, November 2, 3; *Miami Herald*, November 2. [The following letter from Jerome Weidman, president of the Authors League of America, Inc., was sent to librarian Brinton on November 6:

We hope that upon reconsideration you will recognize the Library's basic responsibility to the First Amendment of the United States Constitution

and to the right of adults in Jacksonville to decide for themselves what books they will read.

Your action in removing Mickey Spillane's novel, *The Erection Set*, as reported in *The Miami Herald* of November 2nd, violates the First Amendment guarantee of freedom to read. We remind you that capitulation to this type of pressure for one book establishes a precedent which will make you and your library the victim of similar pressure on other books; and that you cannot fulfill your basic obligation to the First Amendment unless you are willing to protect the rights of every book against puerile demands for suppression.

We hope that you will reverse your precipitous surrender to the pressure in this case and restore Mr. Spillane's book to the shelves of your library.]

Decatur, Ill.

During a meeting of the Decatur Public Library Board of Directors, A. Webber Borchers, a representative to the state senate, and four angry parents, asked the board to remove the book, *Go Ask Alice*, from the library. "This book is over the line of decency," said Borchers, "and should not be on the shelves of this library." The book, written in a diary format, describes the life of a teenage girl on drugs; it is part of the library's young adult collection. Librarian Robert H. Dumos told the group that the book was acclaimed by the ALA and was recommended by a number of book review sources. The board made no decision on whether to take action against *Go Ask Alice*. In addition to complaints about that title, Borchers objected to the library's borrowing policy. Hugh Butler, chairman of the library board, explained that adult cards are available to anyone in the ninth grade or over the age of fourteen. He also explained that any young person could borrow a parent's card and have access to the entire library. Borchers remarked that "this kind of thing being permitted is part of the problem of our young people already." Reported in: *Decatur Review*, November 18.

Hannibal, Mo.

Objections to the presence of Kurt Vonnegut's *Slaughterhouse Five* in school libraries resulted in a one-hour debate by board of education members. Board president Leo W. Riney called the book "filth" and said, "I don't think if any of you read it, you'd approve of it being in any place." Reportedly, Superintendent Seaton A. Bonta said similar problems face school libraries across the nation and organizations such as the American Library Association have remained *neutral*. [The Association has hardly remained neutral on the subject of removal of materials because objected to by some individuals and groups.

What to Do Before the Censor Comes – And After (Newsletter, March 1972) and *Free Access to Libraries for Minors* (Newsletter, September 1972) clearly place the Association in opposition to the removal of materials unless they are found to be “illegal” acquisitions in a court of law (*Resolution on Challenged Materials*), and in opposition to other practices restricting minors’ access to materials and library services. JAH.] Concluding its discussion, the board adopted a written policy, recommended by the administrative staff, stating practices for selecting and, if necessary, removing library materials. Reported in: *Hannibal Courier-Post*, October 19.

Harlingen, Tex.

Pointing out that the book is endorsed by former U.S. Attorney General Ramsey Clark, a city commissioner requested that *The Inner City Mother Goose* be removed from the public library because of certain “words” to which he objects. He said further that he may survey the entire collection to determine if there are any other books with “dirty words.” City Librarian Helen McPherson Thompson said she feels neither the city commission nor the city library board has the right to dictate which books she stocks. She said, “I really do not believe I’m going to respond to this sort of pressure.” Reported in: *Dallas Morning News*, November 19.

Buffalo, N.Y.

At the request of City Councilman William A. Dauria, Judge William G. Heffron of Erie County Court launched a grand jury investigation to determine if and why Model Cities funds were used to purchase copies of *The Inner City Mother Goose* for Buffalo schools. The judge said, “To teach these little children to commit crimes is something I think should be stopped.” The book was listed on a bibliography prepared by William A. Miles, acting as consultant to the Model Cities program. Miles said the book was listed with the intention that teachers read it as background. School officials claimed the work had been purchased but had never been placed in libraries. Dauria said he had obtained the book from open shelves at school No. 39 but later admitted that he may have acquired a copy which was actually not on the library shelves. Reported in: *New York Times*, October 4; *Buffalo Evening News*, October 4.

Sutherlin, Ore.

Charging that the librarian and board of the Douglas County Library do not serve the real interests of local taxpayers, Mrs. Basil Denison wrote a series of letters to editors of county newspapers to protest the board’s reluctance to acquire the John Birch Society’s *Blue Book* and other conservative publications. She said the library has a policy of purchasing only those materials reviewed

or recommended by certain prescribed selection sources, thus “permitting themselves to cater to [among others] black revolutionaries who, in my opinion, fail miserably to reflect the greatness of the role they [blacks] claim to represent.” Urging the library to include certain books representing a conservative viewpoint, Mrs. Denison referred to the American Library Association’s selection aid entitled “Extremism in American Politics.” Reported in: *Drain Enterprise*, August 31. [Other libraries may also receive requests from local John Birch Society members to include the *Blue Book* in their collections. In mid-1972 the Society launched a national effort to encourage members to approach libraries and suggest inclusion of the *Blue Book* and others such as *The Death of James Forrestal*, *None Dare Call It Conspiracy*, and *Fearful Master*. For further information on this campaign, contact the Office for Intellectual Freedom, 50 E. Huron St., Chicago, Ill. 60611. JAH.]

Schools — Curricula

Tulsa, Okla.

Citizens for Quality Education, led by Virgil Hensley, spearheaded a petition drive for a grand jury investigation of a multi-ethnic studies program in Tulsa schools. After obtaining a copy of *Dynamite Voices*, one of some 300 paperbacks used as supplementary readings in a black studies course, Hensley charged the Education Service Center with propagandizing high school students with “racist, revolutionary, pornography.” School Superintendent Gordon Cawelti agreed the book contained objectionable language and ordered all multi-ethnic studies materials to be reviewed by a social studies committee. Hensley demanded that laymen be included on the committee and insisted that the person responsible for purchasing the paperback collection be fired. Cawelti said he does not intend to act on Hensley’s demands. Reported in: *Tulsa Eagle*, September 28.

Thornton Township, Ill.

After an angry mother appeared before the District 205 school board and read “objectionable” passages from *Speaking for Ourselves*, an English textbook used in multi-ethnic classes at Thornton, Thornridge and Thornwood high schools, the board debated the book and voted to discontinue its use at the end of the semester. Mrs. Lottie Rogers, the complaining parent, objected to the language in some articles and to authors such as Alan Ginsburg and LeRoi Jones. Subsequently, students organized a protest march at Thornridge to register their opposition to the ban. At the board’s next meeting, it was confronted by an audience of about three hundred. Five speakers, including students and faculty members, were allowed to speak regarding the textbook banning. All spoke in favor of

retaining the book and demanded that the board reconsider its action. The board declined, however, and cancelled its November 22 meeting, leaving the ban in effect. Reported in: *Harvey Star-Tribune*, October 29; November 2, 9, 12.

Prince George's County, Md.

In guidelines recently issued, County School Superintendent Carl W. Hassel said, "No religious celebrations must be held as part of school programs. . . . This means no songs or music programs that have a significance for a particular religion should be performed during the period which coincides with the specific religious celebration." Hassel issued the more specific version of earlier guidelines after a visit by Isaac Franck, executive vice president of the Jewish Community Council of Greater Washington. Barred are programs with titles such as "Christmas Assembly." Reported in: *Washington Post*, November 27.

College and University Campuses

Los Angeles, Cal.

The UCLA Communications Board, responsible for publishing the campus newspaper, *The Daily Bruin*, issued a policy statement regarding intimidation of the campus press, stating that any acts of harassment must be reported immediately to the dean of students. This new policy came about after a violent confrontation last May between university student body leaders and the editorial staff of *The Bruin*. Last spring a student strike was called to protest Nixon policy in Southeast Asia. *The Bruin*, although in sympathy with the strike, objected to leadership being concentrated in student body president Lamar Lyons and a few of his associates. *The Bruin* publicly expressed its displeasure in a strongly-worded editorial entitled "Pigs is Pigs," which criticized "certain authoritarian personalities" who took over the strike "to advance their own egos." It recommended that steering committee meetings be open to all students, faculty, and university personnel, and reminded leaders that the strike was supposed to involve the entire university community. Student body president Lyons didn't take *The Bruin* criticisms calmly; within hours after the editorial appeared, Lyons retaliated with a show of force. He and a few colleagues confronted the editorial staff and demanded to know if "he was a Pig." Lyons' group reportedly attacked some staff members and warned that, if an apology was not printed, he and his friends would return and "half *The Bruin* staff would land in the hospital." The next day, *The Bruin* ran a first page apology stating that it had been "assured that broad representation does exist." No mention was made of Lyons' visit. Now, six months later, the incident has led political observers, who are wary of youthful wisdom and abilities, to speculate

about the seriousness and maturity of these "young liberals" at UCLA. Said one observer, George Mair of station KNX, the elected student leaders' response to criticism was less than noble; and the campus newspapers' attempt to "hush-up" the incident is a cop-out on what freedom of the press is all about. Reported in: *Los Angeles Times*, October 30.

Washington, D.C.

A booklet on sexuality and birth control prepared by students at the Georgetown University Medical School has sparked sharp criticism from Church and University authorities. The 46-page publication entitled *Human Sexual Response-Ability* deals with sexuality in a casual yet factual manner, with no moral overtones. Patrick Cardinal O'Boyle, Roman Catholic archbishop of Washington, charged that the booklet endorses abortion, homosexuality, and birth control and presents a moral position "directly contrary to the teachings of the Church." Cardinal O'Boyle conferred with Georgetown's President, the Very Reverend Robert J. Henle, and asked that the publication be withdrawn. Father Henle has disclaimed all responsibility for the booklet, stating that it does not represent official university policy and was distributed by the student government. He did not indicate any plans to withdraw the pamphlet. Reported in: *Washington Post*, November 24.

Ann Arbor, Mich.

The University of Michigan suspended assistant chemistry professor Mark Green because he used class time to present a slide show depicting "the manner in which the current [Vietnam] air war is conducted. It also showed ads where large, science-based corporations advertised with pride how they turned their technological strength to serve the military." Green said the program was relevant to his organic chemistry class because it "showed the misuse that is possible with the technology taught at the university." Some of Green's students began a petition drive to have him reinstated and a number of his colleagues planned to show the same slide show to the classes in support of Green, who is untenured. Acting chairman of the chemistry department, Thomas Dunn, said Green would be guilty of usurping class time if he is unable to explain the relevance of the slide show. Reported in: *Detroit Free Press*, October 1.

Films

St. Louis, Mo.

Mrs. Billie Lasker, the "smut-fighting grandmother," led a group of 200 irate citizens to ask County Prosecuting Attorney Gene McNary to halt the showing of Woody Allen's film, *Everything You Always Wanted to Know*

About Sex But Were Afraid to Ask (see November 1972 Newsletter, p. 157). After the meeting, McNary agreed to have a representative from his office view the film. Mrs. Lasker's group also complained about the book, *The Happy Hooker*, by Xaviera Hollander. McNary explained that the St. Louis County Prosecuting Attorney's office is seeking an injunction against retailing the title. At last report, no determination was reached. Reported in: *St. Louis Globe Democrat*, October 10, 12.

Hollywood, Cal.

The Congress of Racial Equality (CORE) demanded that Hollywood movie studios submit scripts of proposed films about blacks to a CORE review board for advance approval. CORE's demand came in response to a rash of "exploitation" films (*Shaft*, *Superfly*, *Blackula*) which CORE says destroy the black image and produce the wrong symbol for black youth. Reported in: *Denver Post*, September 22.

Freedom of the Press

Indianapolis, Ind.

Members of the United Auto Workers (UAW) Community Action Program picketed the offices of Indianapolis Newspapers, Inc. because the papers refused an ad dealing with an Indianapolis teachers' strike. According to William A. Dyer, Jr., vice-president and general manager of the papers, the ad was rejected because it did not give the total story about price increases from August 1971 to August 1972. Dyer said the union group refused to change the ad. Reported in: *Indianapolis Star*, November 3.

St. Paul, Minn.

The executive committee of the state chapter of the American Institute of Planners withheld distribution of the October issue of its monthly newsletter, *The Little Magazine on Urbanism and Planning*, because of a guest editorial highly critical of the Metropolitan Council. Two of the six executive committee members are employed by the Council. Donald Ardell, author of the editorial and a former Metropolitan Health Board director, wrote that the council "has for years been making a mess of things by frustrating its health board at every turn." In his opinion, the council catered to special interests and did not serve the public interest. Reported in: *St. Paul Pioneer Press*, October 19.

Hazard, Ky.

To register general discouragement with "freedom of the press" in Appalachia, Oscar Combs, publisher of the weekly *East Kentucky Voice*, left the front page of the first November issue blank except for a red "censored" stamp across the center. On the inside, he warned, "When the day

arrives a reporter cannot have access to public records, the freedom to print 'all' the news is gone and America is no longer the 'land of the free'." Combs said his dramatic action was prompted by such incidents as his attempt to get a story about a state policeman's arrest of Breathitt County Judge Jim Henson on a drunken driving charge. He said he "got the runaround from everyone on the story although they usually make such information available on the average person." Reported in: *Louisville Courier-Journal*, November 4.

Oklahoma City, Okla.

The U.S. Army gave notice to the *Daily Oklahoman*, an Oklahoma City newspaper, that all future requests for information must be submitted in writing. According to the Army, this restriction on information applies only to the *Oklahoman*. For the past two years, the paper conducted an unrelenting investigation of the Mylai massacre and was critical of the Army's handling of the investigation. Lt. Col. Leonard F.B. Reed, spokesman for the Army's Chief of Information, said the decision was based on complaints last month from the *Oklahoman* and other news media about misleading or erroneous information given out by the Army. Reported in: *Washington Post*, September 30.

Television

Champaign, Ill.

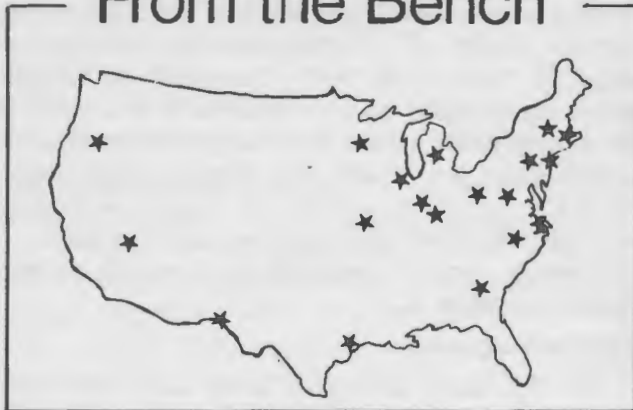
Television station WCIA refused to show two episodes of the CBS series, "Maude," because they treated abortion "as a comedy situation which WCIA believes is bad taste." The station program director said in a prepared statement aired prior to the program that the episode may violate Illinois law. The Greater Champaign chapter of the National Organization for Women sought but was refused a temporary injunction against the station to force airing of the show. In response to the cancellation, the station received 200 calls objecting to the move and thirty calls praising the program change. Reported in: *Decatur Review*, November 17; *Chicago Sun-Times*, November 23.

Ft. Wayne, Ind.

Television station WPTA (channel 21) cancelled a scheduled showing of an ABC network movie, *That Certain Summer*, starring Emmy Award winner Hal Holbrook, because a number of complaints were received about the announced content of the movie. *That Certain Summer* explores the relationships between a man, his ex-wife, and their son, when the boy discovers his father (Holbrook) is a homosexual, living with his male lover. In its place,

(Continued on page 22)

From the Bench



Books and Films

Hartford, Conn.

Circuit Court Judge David J. Jacobs, ruling in a case against a vendor whose \$3,000-stock of allegedly obscene magazines was seized by police officers, declared that policemen cannot decide what constitutes pornography. Judge Jacobs said that, if this were allowed, there would be "as many different standards of what constitutes obscenity as there are policemen." Reported in: *Philadelphia Inquirer*, November 8.

Marion, Ind.

Special Judge Joseph Eichhorn dismissed a suit brought by the Jacob Weinberg News Agency asking for a permanent injunction against enforcement of Marion's pornography ordinance (see November 1972 *Newsletter*, p. 163) because, in his opinion, the ordinance applies only to retail merchants. Attorneys for the news agency filed a motion asking Eichhorn to reconsider his dismissal. Even if Eichhorn refuses to change his ruling, the case could be

appealed. The attorneys contend that the Marion ordinance is pre-empted by state obscenity statutes and that it violates the First, Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, as well as several articles in the Indiana Constitution. Reported in: *Marion Chronicle-Tribune*, November 1.

Washington, D.C.

Federal Magistrate Arthur L. Burnett declared two films, *Hot Circuit* and *Distortions of Sexuality*, obscene. They were seized by FBI agents on the grounds that they violate a federal law prohibiting the interstate transport of obscene matter. Reported in: *Washington Post*, November 4.

Atlanta, Ga.

The Georgia Court of Appeals overturned the conviction of Stephen Feldschneider, owner of the Glass of Hill Walla, an Athens boutique, for distributing obscene materials. The appellate court overruled an earlier decision by state court Judge Grady Pittard who incorrectly instructed the jurors to consider "their own community" rather than using a national standard in deciding whether the publications were obscene. Reported in: *Atlanta Constitution*, November 18.

Ft. Wayne, Ind.

Federal Court Judge Jesse E. Eschbach denied a request by Playboy Enterprises, Inc. for a preliminary injunction against the City of Marion, Ind., to bar enforcement of an anti-pornography ordinance stipulating that adult materials be displayed and sold only in areas which forbid minors to enter. Judge Eschbach denied the injunction on the grounds that Marion officials have not yet determined whether *Playboy* is effected by the ordinance. Reported in: *Ft. Wayne News Sentinel*, October 6.

KELLY



Copyright, 1972, Universal Press Syndicate

Lansing, Mich.

After a three-day trial, a jury of five women and one man found two employees of the Adult Book Store not guilty of possession and intent to show obscene films. For the city of Lansing, the concluded trial ends a long battle against the store. During the trial, Judge Charles Felice and the jury viewed an allegedly obscene, thirteen-minute film. Attorneys for the defense asked that the Judge rule the film protected by the First Amendment. [Judge Felice said the film was unprotected by the First Amendment, but added that the jury could decide if it was indeed obscene.] Reported in: *Lansing Journal*, September 28.

Chicago, Ill.

A federal grand jury indicted three theater operators for violating a federal law prohibiting interstate shipment of obscene materials. The movie in question, *Ranch Slaves*, was described in the indictment as "obscene, lewd, lascivious and filthy." Reported in: *Chicago Sun-Times*, October 17.

Lansing, Mich.

In a 4-3 vote, the Michigan Supreme Court reversed a lower court ruling and dismissed cases against Floyd Bloss and the late Clifford Hughes, employees of the Capri Bookstore in Grand Rapids, for selling obscene magazines. Justice Paul L. Adams, writing the decision, said that the U.S. Supreme Court test for obscenity was not met. Adams pointed out that no juveniles were involved, the publications were not given to unwilling individuals, and there was no open advertising. "Unless these tests are met," Adams said, "the material, however coarse or vulgar it may be, is protected by the First and Fourteenth Amendments of the U.S. Constitution from government suppression." Reported in: *Lansing Journal*, November 8; *Battle Creek Enquirer & News*, November 2.

Minneapolis, Minn.

Voting 4-3, the Minnesota Supreme Court upheld the conviction of Minneapolis theater owner Mel Lekowitz for showing the film *The Art of Marriage*. In so ruling, the court established a new guideline for the determination of obscenity. Instead of defining the material as obscene or not obscene, the jurists drew a line between "hardcore" and "softcore" pornography. The former was defined as material "with no pretense of artistic value" and does not enjoy Constitutional protection. Softcore pornography was characterized as less offensive than hardcore and protected by the Constitution as long as it is not sold to minors, pandered, or shown to unwilling viewers. In the written opinions on *The Art of Marriage* case, the seven Supreme Court judges differed considerably in their interpretation of the law. All agreed that further clarification from the

U.S. Supreme Court is needed. Chief Judge Oscar Knudson explained, "No one seems to know what the guidelines are. Until there is some clarification, I prefer to uphold the trial court." Reported in: *Minneapolis Tribune*, November 11; *Variety*, November 22.

New York, N.Y.

Manhattan Criminal Court Judge Harold Rothwax ruled that police illegally seized thousands of films and magazines during their raids of 135 Times Square peep shows and book stores. By not getting judicial approval for their raids, the police violated the constitutional rights of the store owners under the First and Fourteenth Amendments, Rothwax said. Reported in: *New York News*, November 16.

Salem, Ore.

The Oregon Court of Appeals ruled the film *Southern Comfort* legally obscene under Oregon laws and U.S. Supreme Court rulings in effect at the time that the motion picture was first seized, two years ago. The new state criminal code which took effect January 1, 1972 removed most controls over what adults can read or see. The film was given a "PG" rating by the Motion Picture Board. Reported in: *Salem Statesman*, October 4.

Hazelton, Pa.

Schuylkill County Judge John W. Walesky ruled two movies, *Keep It Up* and *Danish and Blue*, obscene. However, Judge Walesky declared that evidence against the movie theater owner and projectionist was inadmissible because a search warrant was illegally obtained by the police. The Judge pointed out there had not been an adversary hearing on the factual issues of obscenity, and that under Supreme Court rulings, confiscation before a hearing is prohibited. Reported in: *Hazelton Standard-Speaker*, November 1.

El Paso, Tex.

In a move against pornographic films, an El Paso County Grand Jury issued indictments against eight movie theater operators, with bond set at \$10,000 to \$15,000 in each case. This is the first time felony charges have been filed in a pornography case. In the past, obscenity offenses were classed as misdemeanors. Reported in: *El Paso Herald-Post* November 2.

Beaumont, Tex.

A permanent injunction was placed against the Cinema 4 Theaters in Beaumont and Port Arthur after the theater owners were found guilty of showing and distributing obscene films. Joe Goodwin, attorney for the theaters, said the decision would be appealed. In his closing argument Goodwin agreed that six of the nine films shown at the theater were obscene but told the jury "we're not saying

you yourself ought to go. We are just asking you to defend anyone else's right to go down there." District Attorney Joe Hanna said that the issue was not whether someone has a right to see such films but whether the law prohibits distribution and exhibition of such films. Reported in: *Beaumont Enterprise*, October 31.

Freedom of the Press

Boston, Mass.

District Judge W. Arthur Garrity found Professor Samuel L. Popkin, Harvard specialist in Asian affairs, guilty of contempt of court for refusing to answer questions before a federal grand jury investigating the distribution of the *Pentagon Papers*. Popkin refused to explain how he knew who had helped prepare the *Pentagon Papers* before their general release because it would be a breach of confidence of sensitive sources on whom he depends for his research. He also asserted that scholars are entitled to special constitutional protections as they pursue their work. "It's not an absolute right," said Popkin, "but scholars and journalists have a responsibility to keep the flow of information moving." While such protection has never been given to scholars, legal experts agree that Popkin is probably the first ever jailed for protecting confidential sources. Judge Garrity's ruling, coming soon after the U.S. Supreme Court's decision that journalists must reveal confidential sources before grand juries, is viewed as having a further chilling effect on First Amendment rights. The *New York Times* commented in a recent editorial that a "combination of the present trend in judicial decisions . . . will make it increasingly difficult for reporters or scholars to penetrate the wall of official secrecy behind which the public officials can hide their errors and transgressions." Popkin was jailed for the duration of the grand jury and released on November 28. Reported in: *New York Times*, November 23; *Chicago Tribune*, November 29.

Reno, Nev.

U.S. District Court Judge Bruce Thompson upheld the decision of Washoe District Court Judge Grant Bowen which prohibited the publication of jurors' names in a murder trial held two years ago. Judge Bowen stated that "the order . . . was and is a constitutional and valid order" and that it fell under a judge's "legislative" power. The *Nevada State Journal* and *Reno Evening Gazette* claimed the order was a violation of First Amendment guarantees of freedom of speech and press because the names were a matter of public record and easily accessible to anyone who attended the open, public trial. Judge Thompson did not agree and concluded "the only imaginable use any member

of the public might make of such information is an improper one — jury tampering." Reported in: *Reno State Journal*, September 7.

Freedom of Speech

St. Louis, Mo.

A three-judge panel of the Eighth District U.S. Court of Appeals ruled unanimously that David Wilderman, a former employee of the Missouri Division of Public Welfare, was dismissed strictly "in retaliation for his exercise of the constitutional right of free speech." The Appeals Court recommended that Wilderman's case be heard by the U.S. District Court. Wilderman, employed by the division seven months, was dismissed after submitting to his supervisor a memorandum critical of a division personnel rule. The court cited the *Roth* and *Sindemann* cases (see September 1972 *Newsletter*, p. 138) handed down in June 1972 which specify the manner in which public employees may be dismissed. Judge Myron Bright, writing for the panel, pointed out that in Wilderman's case, "The record . . . contains evidence tending to show state action imposing a stigma upon Wilderman which may affect his future employment opportunities." Reported in: *St. Louis Post-Dispatch*, October 5.

Boston, Mass.

Protesting the appearance of journalism Professor James Higgins, scheduled to give a speech entitled, "What's Going on in Castro's Cuba Today," about one hundred Cuban exiles demonstrated and detonated stink bombs at the New England Life Hall. The speech was cancelled and two demonstrators were arrested but later released without charges. Reported in: *Boston Morning Globe*, November 20.

New York, N.Y.

A U.S. Court of Appeals three-judge panel ruled unanimously that a public school teacher has a constitutional right to refuse to participate in the Pledge of Allegiance to the Flag. Mrs. Susan Russo, a Henrietta, N.Y., high school teacher, was dismissed two years ago because she stood at silent attention during the required pledge. Reversing the lower court decision, Judges Irving R. Kaufman, Sterry R. Waterman, and J. Joseph Smith stressed freedom of speech and a citizen's *right to remain silent*. In the opinion, Judge Kaufman said, "We ought not impugn the loyalty of a citizen — especially one whose convictions appear to be as genuine and conscientious as Mrs. Russo's — merely for refusing to pledge allegiance, any more than we ought necessarily to praise the loyalty of the citizen who, without conviction or meaning and with

mental reservation, recites the pledge by rote each morning. . . . It is our conclusion that the right to remain silent in the face of an illegitimate demand for speech is as much a part of First Amendment protections as the right to speak out in the face of an illegitimate demand for silence." Judge Kaufman noted that the U.S. Supreme Court has ruled that students are within their rights to refuse to salute the flag. The Henrietta School Board seemed to want the court to decide that "the rights enjoyed by schoolchildren are broader than the First Amendment rights of their teachers." Reported in: *New York Times*, November 15.

Obscenity Legislation

Newark, N.J.

A three-judge federal panel ruled that New Jersey's recently amended obscenity statute is unconstitutional. Last February, in an attempt to make it easier for the state to prosecute obscenity cases, the state legislature amended the state obscenity law, deleting the "redeeming social value" test from the statute. The federal judges said that U.S. Supreme Court decisions have stated that it must be clearly shown that there is no redeeming social value in the material questioned before it can be declared obscene. Reported in: *Philadelphia Inquirer*, November 21.

Radio

Norfolk, Va.

John Frank Nesci, a disc jockey at WOWI-FM radio station, was indicted by a federal grand jury for allegedly violating a law against "uttering any obscene, indecent or profane language by means of radio communications." Last June Nesci played the section of the "Woodstock Nation" album on which Country Joe and the Fish lead the audience in a shout of "fuck." The Federal Communications Commission was monitoring Nesci's program at that precise time because "we'd gotten so many calls . . . an inordinate number of complaints" about the controversial programming. The monitoring "coincidentally" occurred at about the same time that Nesci was broadcasting the license numbers of unmarked police cars in the area. The Virginia chapter of the American Civil Liberties Union is handling Nesci's defense. Reported in: *Jersey City (N.J.) Journal*, October 28.

Chicago, Ill.

The 1971 conviction of Charles P. Smith on a charge that he made an obscene radio transmission [see *Newsletter*, v. 20, p. 88] was overturned by the 7th District Court of Appeals. A three-judge appellate court ruled that the lower court erred in failing to determine if Smith knowingly

broke the law. Furthermore, the court failed to define for the jury the terms "profane" and "indecent." Reported in: *Rock Island Argus*, September 27.

Abortion and Birth Control Information

Atlanta, Ga.

A three-judge federal court panel declared unconstitutional the federal laws prohibiting the mailing of abortion information. Judges Lewis R. Morgan, Charles A. Moy, Jr., and William C. O'Kelley, in their written statement, declared that abortion referral information "falls within the protective ambit of the First Amendment. The fact that it is transmitted in a commercial setting or for profit does not remove that speech from the protection of the First Amendment." The ruling came in a case brought by the *Great Speckled Bird*, an Atlanta underground newspaper, after postal authorities threatened last April to stop mailing the paper if it continued to carry advertisements for abortion referral services. Reported in: *Atlanta Constitution*, September 30.

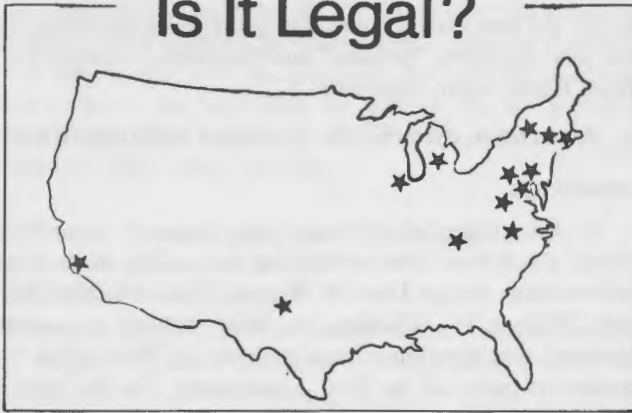
Charlottesville, Va.

The State Supreme Court, in a 4-to-2 decision, upheld the conviction of Jeff Bigelow, a member of the *Virginia Weekly* newspaper collective in Charlottesville, for violating a Virginia statute prohibiting the advertisement of abortion referral services. Bigelow's attorneys argued that publication of abortion information did not encourage abortion but offered information to women who had already decided to terminate their pregnancy. The judges disagreed, explaining that such advertisements went beyond the bounds of information when they offered to make total arrangements. In addition, the court contended that, since this was a commercial advertisement, the state has regulatory power over it. Reported in: *Los Angeles Free Press*, October 27.

The Students' Right to Read — 1972 Revision

The National Council of Teachers of English (NCTE) recently published a revised version of its well-known pamphlet, "The Students' Right to Read." Edited by Kenneth L. Donelson, the 1972 edition continues the basic elements and organization which made the original indispensable for classroom teachers and librarians, and adds more recent quotes and examples, an updated appendix, a new introduction, and an edited text which reads clearly and precisely. Copies are available from NCTE, 1111 Kenyon Road, Urbana, Ill. 61801. Cost: 35 cents each; five for \$1; 15 cents each for ten or more.

Is It Legal?



Freedom of the Press

Los Angeles, Cal.

The Reporters Committee for Freedom of the Press submitted an *amicus* brief to the California Supreme Court in support of the *Los Angeles Free Press*. The highly successful underground paper sought to reverse a 1971 receiving-stolen-property conviction against an editor and a reporter. The newspaper had published a list of state employees serving as undercover agents. It was later determined that the list was stolen from the offices of the State Attorney General. However, there was no evidence that either newspaper employee was involved in the theft. Reported in: *Los Angeles Free Press*, October 27.

Chicago, Ill.

Richard F. Green and Robert S. Madison, Navy veterans and members of the Great Lakes Movement for a Democratic Military, filed suit in U.S. District Court charging that they were unlawfully arrested three times by Great Lakes Naval Base security men and local police for distributing an antiwar newspaper outside the Great Lakes military installation. They say such interference is a violation of their constitutional rights of free assembly, speech, and press. Reported in: *Chicago Sun-Times*, October 8.

Newark, N.J.

Richard W. DeKorte, Republican floor leader of the New Jersey Assembly, said a bill expanding journalists' privilege against being forced to divulge confidential sources is certain to come before the legislature soon. DeKorte said that the recent jailing of Peter J. Bridge, a reporter for the now defunct *Evening News* of Newark, for his refusal to answer certain questions before an Essex County grand jury investigating charges of corruption in the Newark Housing Authority, makes action on the newsmen's privilege bill particularly urgent at this time. Reported in: *New York Times*, October 6.

Licensing

Haddon Township, N.J.

Crestmont, Inc., a movie theater franchising organization, promised the Haddon Township Board that, if they are allowed to construct their proposed theater, only "family" movies will be featured. Because two other local movie theaters now show X-rated films, the board is reluctant to license another adult theater. However, board chairman James McGrath admitted that any agreement of this kind between Crestmont, Inc. and the Township will probably be unenforceable. Reported in: *Camden Courier-Post*, September 21.

Political Surveillance

Washington, D.C.

The Senate Subcommittee on Constitutional Rights, headed by Sen. Sam J. Ervin, announced that it found no evidence that there is, in fact, a special military reserve unit associated with the Office of Emergency Preparedness (OEP) whose function is to prepare a "national watchlist" of persons with "devious" plans for overthrowing the government. However, William S. Moorhead (Dem.-Pa.), chairman of the House Government Information Subcommittee, said his committee will conduct a full-scale investigation of government censorship planning. Moorhead stated that two letters he received from Eugene J. Quindlen, in charge of censorship planning at OEP, convince him that a "watchlist" unit still exists. OEP was given responsibility to develop censorship plans in Executive Order No. 11051 issued by President Kennedy in 1962. Reported in: *Washington Post*, October 30.

Obscenity Legislation

Trenton, N.J.

By a 53-to-3 vote, the New Jersey State Assembly passed a measure which will give municipalities the authority to ban from drive-in movie theaters films which show explicit sex scenes. Senate action on the measure is expected next month. Reported in: *Philadelphia Inquirer*, November 15.

Schools — Curricula

Hartford, Conn.

The Connecticut Civil Liberties Union (CCLU) decided not to bring court action against the University of Connecticut's Board of Governors for its cancellation of a "white power panel" composed of representatives of the Ku Klux Klan (KKK) and the American Nazi Party. The CCLU originally considered the matter a freedom of speech issue, but after deliberating, the executive board decided not to prosecute because "the board of governors is funded

by the university and it would be coercion for [the CCLU] to say the university has to have the program on campus." The study of white racism, first scheduled last spring, was postponed after a student demonstration, then rescheduled as part of a presentation including a discussion of black power. After threats of a KKK disturbance and students' demands that the program be barred, the board cancelled it. Reported in: *Hartford Courant*, October 6.

Boston, Mass.

Mrs. Rita Warren planned a march of "hundreds" to protest state board of education guidelines barring religious-oriented programs and decorations at Christmas time. Failing to see that her view would place the schools in a position antithetical to First Amendment barriers against "establishment" of religions, Mrs. Warren insisted that "the issue is in no way religious. Christmas is a 2,000-year-old tradition, a special ceremony celebrating the birth of our [sic] Lord, that children should experience." If unsuccessful, she will work through State Representative Raymond L. Flynn to file a bill to strip the state board of its authority to establish statewide guidelines. Reported in: *Boston Morning Globe*, October 30.

Westfield, N.J.

A group of parents calling themselves the Committee Against Religious Encroachment in Schools (CARES) filed suit in federal court seeking to prohibit public school Christmas pageants. CARES charges that the performances are religious observances because Jesus is depicted as God. Attendance at the pageant is voluntary but CARES said that members of the Westfield High School student chorus are required to participate in the pageant to receive credit for the music course. Reported in: *New York Post*, November 15.

Seizure of Books and Films

Washington, D.C.

Acting on orders from U.S. Assistant Attorney General John F. Rudy, FBI agents seized the film *Little Sisters* from the Janus I Theater. Earlier this month, FBI officials seized two other films, *Hot Circuit* and *Distortions of Sexuality*, from the Trans-Lux and Trans-Lux New Plaza Theaters. According to Rudy, all three films are being held as violations of a federal statute prohibiting "interstate transportation of obscene material for purposes of distribution." This tactic is being used to gain prosecution against those who distribute and exhibit hard-core pornographic films, not theater employees such as projectionists and box office personnel. Penalties for violation of the statute

include up to five years imprisonment and a fine of up to \$5,000. Rudy said that the government has not yet decided who it will prosecute in either the Trans-Lux or Janus cases. Reported in: *Washington Post*, November 22.

New London, Conn.

Governor Thomas J. Meskill announced there will be a crackdown on pornography to control what he called "pollution of mind." Shortly after Meskill's announcement, in simultaneous raids conducted by the Regional Crime Squad, ten bookstore operators were arrested and charged with promoting obscenity. According to police, the arrests followed more than two months of investigation by undercover officers. Reported in: *New London Day*, November 2; *Danbury News-Times*, November 1.

Knoxville, Tenn.

Attorney General Ron Webster and members of the police criminal intelligence unit staged a raid at the Gentlemen's Book Store and seized a quantity of obscene materials. No arrests were made, but it is believed that the items will be reviewed and action taken against the store owners later. A recently enacted state law gives the attorney general the authority to search places where allegedly obscene materials are being sold and to review copies of each item. Previously all material had to be reviewed and declared pornographic by a judge before it could be confiscated. Reported in: *Knoxville Journal*, November 11.

Dallas, Tex.

A suit filed by the U.S. Attorney's Office against two allegedly pornographic 8mm films, *Das Dreineck* and *Climax*, seized in Dallas, was dismissed after the importer gave the government permission to destroy the films. Reported in: *Dallas News*, October 5, 12.

Zoning Ordinances

Detroit, Mich.

In a move to stop the spread of pornographic book stores, topless bars and adult theaters, the Detroit Common Council passed a zoning ordinance which requires that such establishments receive approval of 51% of the property owners, businessmen, and residents within 500 feet of any proposed location. Existing stores would not be effected. ACLU attorney Sheridan V. Holzman commented that this ordinance is "constitutionally defective and probably beyond salvation because it attempts to use zoning and licensing to restrict First Amendment rights." Reported in: *Flint Journal*, November 16.

Success Stories



Indianapolis, Ind.

In reply to a federal court order, the Indianapolis Board of School Commissioners adopted a new policy regarding the publication and distribution of student publications. Under the new regulation, students may not distribute any publication which is "obscene to minors, libelous or . . . likely to produce a significant disruption of the normal educational processes." Furthermore, students are allowed to distribute their materials only at the school they attend, during regular school hours. This new policy is in response to a court action brought on behalf of some pupils who were prevented from distributing a paper called the *Corn Cob Curtain*, after school officials found it obscene. Lawyers representing the students stated that they are working to liberalize the new policy and to bring it into line with constitutional standards against censorship. Reported in: *Indianapolis Star*, October 13.

Lansing, Kan.

State Prison Warden Raymond J. Gaffney announced that prison officials no longer read inmates' outgoing mail. He said the change in policy has nothing to do with recent court suits concerning prisoners' rights, but that mail inspection is impractical and too time-consuming and "a very dehumanizing thing to do." Reported in: *Topeka Capital*, October 8.

Let Me Say This . . . (from page 6)

Uncle Sam is Watching You: Highlights from the Hearings of the Senate Subcommittee on Constitutional Rights. Public Affairs Press, Washington, D.C., 1971. \$6.00.

An Orwellian fantasy come true, with Uncle Sam substituted for Big Brother, is revealed in 244 pages of tight text. The chapters are extracts from the transcript of hearings held in 1971 by the U.S. Senate Subcommittee on Constitutional Rights, headed by Senator Sam J. Ervin.

The introduction clearly states the purpose of the book is to remind the American people of those values which

Raleigh, N.C.

The Licensing Section of the North Carolina Department of Social Services refused to grant the Citizens for Decent Literature permission to continue its direct mail solicitation campaign. The reason for the denial, according to Edwin J. Edgerton, Director of the Licensing Section, was that 86.1% of the organization's funds reported in one year, went into *administrative and solicitation costs*. [The CDL campaign has been carried on all over the nation for the past two years. Estimates of costs and income are nearly impossible, but many expensive form letters and pre-printed cards have been received by *Newsletter* readers across the country. If you receive a CDL mailing, please inform the Office for Intellectual Freedom, 50 E. Huron, Chicago, Ill. 60611. JAH.] Reported in: *Greensboro Daily News*, August 24.

Harris County, Tex.

Lt. W.A. Haynes, an official of the Harris County Jail and Rehabilitation Center, said that censorship of prisoners' mail has stopped completely. Incoming mail is inspected for contraband and money, but there is "no censorship of their written correspondence." Haynes' statement followed a ruling by U.S. District Court Judge John V. Singleton, Jr., that censorship of correspondence between county and state prison inmates and lawyers, the courts, press, and public officials is unconstitutional. Reported in: *Houston Chronicle*, September 26.

Pasadena, Cal.

The Pasadena School Board voted 3-to-2 to lift the ban on Gordon Parks' autobiography, *The Learning Tree* (see November 1972 *Newsletter*, p. 155). Last July, one-hundred-fifty copies of the book were removed from the libraries of the Pasadena public schools after a storm of protests from angry parents about obscene references. As it now stands, *The Learning Tree* is back in the school libraries and is an approved supplementary text in grades eleven and twelve. Reported in: *Publishers Weekly*, November 6.

they are in danger of surrendering, and to alert them to the obvious implications of allowing the government to continue extending its authority. Intrusions upon privacy and the impairment of traditional rights of privacy have been building since World War II, but the focus has shifted from espionage and sabotage to any open expression of political ideas, activities, and associations. Consequently, the fear of surveillance has grown to become a fear of the government itself — a state which endangers our very society.

This surveillance, says Senator Ervin, and the feeding of information into data banks pry into an individual's

personality, habits, and beliefs. Government surveillance is not new, but what *is* new is the tremendous advance of technology which has allowed governmental agencies to achieve such a high degree of probing and prying.

All seventeen chapters, written by such men in public affairs as Senator Ervin, former Representative Abner J. Mikva, Christopher H. Pyle, Joseph R. Lundy, Ralph Nader, and Malcolm Moos, to name a few, concern themselves with the growing government intelligence apparatus. All call for action, based on congressional powers, to safeguard constitutional rights. Democracy cannot exist unless citizens feel free from total observation and recording of activities; spontaneity cannot survive where everything is noted and stored for retrieval.

This compilation decries the gain of over-all surveillance, and points out the necessity to draw lines between legitimate and illegitimate observation, and between military and civilian intelligence operations. The United States cannot consider itself a democracy if it continues to harass, intimidate, and stifle its citizens.

Adding to the book's pertinency is a bibliography, compiled by Christopher Pyle, dealing with Congressional documents and other sources of information regarding government surveillance activities. —*Reviewed by Marjorie R. Kohn, Supervisor, Readers' Services, Palo Alto City Library, Palo Alto, Cal.*

What You Don't Know Can Hurt You; A Study in Public Opinion and Public Emotion. Lester Markel. Public Affairs Press, Washington, D.C., 1972.

Lester Markel is a former editor of the *New York Times*. As a reviewer, one hesitates to tell librarians that a book written by someone with such impeccable credentials will be of little use to them with their own intellectual freedom problems or of much interest to their patrons. Markel's thesis — that an informed public opinion is a cornerstone of democracy — is unassailable. That public opinion is not as well informed as it might be is another proposition few would quarrel with. His book describes many of the obstacles to the free flow of information to the public and from the public to government decision makers. If only it were more complete and less heavy-handed.

Most useful are chapters on the press and on Congress. In 1972, however, vastly more people get their news from electronic media than from the written word. Today's issue is whether radio and TV, licensed as they are by the FCC, enjoy the full protection of the First Amendment as do the print media. Having spent a lifetime in the newspaper business, Markel understandably gives only minimal space to the role and problems of the electronic media in opinion formation.

Limiting the consideration to public opinion on national issues and to Federal action is also to be regretted. There is no mention in the chapter on radio, for instance, of local radio stations. Such stations have enjoyed a revival in recent years. They do indeed influence public opinion on local issues and so do local newspapers. This is the level where public opinion can have great impact and these are the issues that concern people daily. Librarians well know that this is the level where they encounter attempts at censorship and restriction of access to information.

Libraries, incidentally, are nowhere mentioned as having any function whatsoever in the public opinion process.

Finally, it must be a strange lapse in editing that at this late date permits the use of "Negro" (rioters, though, are "black"). Offensive asides about housewives and women in kitchens and statements such as "I would place 20% of the population in the moron category" (p. 32) do not enhance credibility.

Regrettably, Markel's view of a world where reason rules is not quite a realistic one. The decision-making process at any level must take account of conflicting interests, power groups, and — yes — the emotions of the electorate. Librarians, as well as others in public life, must learn to work within such an imperfect world. Exhortative tomes such as this are a poor guide in this task. —*Reviewed by Mary R. Sive, formerly librarian at Pearl River Public Library, Pearl River, N.Y.*

In Our Mailbox

Authors League Seeks Help

Dear Editors:

The Authors League has protested various efforts to compel the removal of books from the shelves of public or school libraries and from prescribed reading lists. In some instances the cumulative objections of the League and other concerned organizations and individuals have helped to reverse book banning orders.

The League would like to raise its voice in the future against these efforts to deprive librarians, teachers and the public of their First Amendment rights. We would appreciate it if readers of the *Newsletter On Intellectual Freedom* could advise us of such episodes when they occur. Letters and newspaper reports giving information should be sent to The Authors League of America at 234 West 44th Street, New York, N.Y. 10036, Attention: Mills Ten Eyck, Jr., Executive Secretary.

Sincerely,
Jerome Weidman, President
Authors League of America,
Inc.

Dateline . . . (from page 13)

WPTA aired *Luv*, starring Jack Lemmon. The next day, complaints were received because WPTA had *not* broadcast *That Certain Summer*. Reported in: *Ft. Wayne News Sentinel*, November 2.

Detroit, Mich.

The local CBS affiliate, Channel 2, cancelled scheduled showing of the movie *In Cold Blood* and an episode of "Maude," which dealt with abortion. Some local viewers, however, saw the two programs on Toledo's Channel 11. Reported in: *Detroit Free Press*, November 21.

Nashville, Tenn.

After previewing *In Cold Blood*, WLAC-TV declined to air the film as CBS's regularly scheduled "Thursday Night Movie." Said the station manager, "If we aired that sort of violence and language in primetime, we would be ignoring the community responsibilities we are charged with." Instead, the station broadcast *The Bedford Incident* which has a higher body count than *In Cold Blood!* Reported in: *Nashville Tennessean*, November 5.

Atlanta, Ga.

WAGA-TV refused to broadcast CBS's "Thursday Night Movie" showing of *In Cold Blood*. The station's general manager said that he felt the language in the film is too bold for his audience. Reported in: *Atlanta Constitution*, November 7.

Miscellaneous

Syracuse, N.Y.

The Everson Museum, an avant-garde art institute, engaged in a fight for its life when the Onondaga County Legislature's Ways and Means Committee took up a resolution to withhold funds after the museum board completes an investigation of recent activities and policies. The committee will investigate complaints that a "religious orgy" was staged at the museum during which a dead lamb was disemboweled and its blood dripped on some spectators, and that certain paintings and ceramics displayed are obscene. In addition, the chairman of the local American Legion's Americanism Committee objected to appearances at the museum by Jane Fonda, the Rev. Daniel Berrigan, and William Kunstler. Reported in: *New York Times*, November 23.

A Little Help From Our Friends . . . Please?

Since the May 1972 issue, the *Newsletter* has featured its "Let Me Say This About That" column of book reviews. From our initial group of volunteers, we have developed a reliable cadre of reviewers, and we're very grateful for them. But . . . we need more! Now that the reviewing program is established, the *Newsletter* is receiving review copies at a faster rate than we can assign the books. If you are interested in intellectual freedom (from a variety of viewpoints), if you like to read, and if you believe you write clearly and concisely, why not join our group of reviewers? Generally, reviewers may keep all materials reviewed and receive complimentary copies of the *Newsletter* in which the review appears. If you are interested, write and tell us about yourself: Editors, *Newsletter on Intellectual Freedom*, 50 East Huron, Chicago, Ill. 60611.

Viewpoint . . . (from page 5)

not have been published; not to publish it would have been equivalent to censorship of history.

Next began what has been a year and a half of seeking legal cooperation elsewhere, a succession of experiences in Kafka-land. First came the time wasted appealing to the Authors Guild, of which I am a long-time, dues-paying member. I explained my experience, pointing out that this would be a useful warning to my fellow members if included among articles in the bimonthly *Guild Bulletin*. But the Guild, via its executive secretary, Peter Heggie, shelved this suggestion. And, like ACLU, the Guild declined to help in a test case. After four months, I had only Heggie's advice that I get myself a lawyer and meanwhile refrain from offending Harper by publicizing the affair.

My quest for a private attorney turned into a futile sameness, so I will cover only its most illuminating episodes. I tried a sequence of three attorneys with firms specializing in the publishing field, explaining to each that he would not be working only for "glory." Here was a groundbreaking attack upon censorship practiced by commercial media. Because such censorship is not expressly forbidden by the First Amendment, an effectual vehicle for the test case would be a suit for damages resulting from Harper's breach of contract. I could draw upon savings for a retainer, and to this would be added a contingency arrangement by which he would share in any collected damages. But, each attorney candidly told me he preferred the bigger money on the publishers' side of the fence.

I thereupon tried a pair of "concerned" young lawyers

described to me as devoting most of their practice to "correcting injustices of all kinds." I underwent the labor and expense of supplying them with documentation. After three months, they vanished, presumably back to less venturesome areas of injustice.

I also tried veteran anticensorship specialist Charles Rembar. His reputation was based on his defense of such books as *Lady Chatterley's Lover* and *Tropic of Cancer*, but might he not welcome this opportunity to pioneer also in the non-obscenity field? He assigned an assistant to study the case. Nine months later, I had only Rembar's opinion that the next stage in development of First Amendment law would take up the issue of censorship by the communications media but, under present conditions, a test case against Harper would be too expensive.

I turned back to the Authors Guild with a recital of what its recommendation ("get yourself a lawyer") had failed to accomplish. This time I received a warning stronger than the original to keep quiet about my Harper affair. Heggie wrote me that by continuing to fight censorship I would be "stigmatizing" my book, which I take to mean that publishers would blacklist it and me.

This is a cease-and-desist which, as a stubborn libertarian, I cannot accept. The more so because the once vital Guild has become an organization run by its secretariat. It is content to sign "me-too" petitions against censorship in such far-off climes as Washington and Moscow. Its latest

Bulletin is filled with back-scratching ads by book publishers. Its figurehead Council is dominated by authors who prefer not to disturb the equanimity of their luncheon and marketing relations with publishers. And, current Guild president Herbert Mitgang is content: "I often think that the most important function of the Authors Guild is simply to exist."

So, I continue "stigmatizing" *Sharp Language*. At the outset, I was propelled by a "they-can't-do-this-to-me" feeling of outrage, later supplanted by the realization of the need for a test case — mine or someone else's — to equalize the probing writer's civil rights with those of an unprincipled publisher.

Meanwhile, I have seen that the story needs telling. Currently lacking help to bring Harper to court, I can at least help bell the cat. And not only to forewarn other authors against the portentous restrictions upon their freedom of expression. What of readers, the terminal victims of censorship's strumpeting the truth? My right to reveal is matched by their right to know. It should come as a revelation to these consumers of information that in the book field, as elsewhere, incompetence, subservience, greed, and Gresham's law are doing their thing. There are still publishers, notably among the truly independent ones, who can take justifiable pride in their integrity. But, there are others, notably among the conglomerated ones, who have joined the censors.

Intellectual Freedom Bibliography

Compiled by Patricia R. Harris, Assistant to the Director, Office for Intellectual Freedom.

- Ahmad, Iqbal. "Karl Jaspers' Idea of Academic Freedom," *Intellect*, v. 101 (November 1972), pp. 95-96.
- Akmatsu, Muriel. "Liberating the Media: Advertising," *Freedom of Information Center Report*, No. 290, September 1970.
- Akmatsu, Muriel. "Liberating the Media: News," *Freedom of Information Center Report*, No. 289, September 1972.
- Allain, Alex. "Trustees, Librarians and Censorship," Proceedings of the North Dakota Library Association, 64th Annual Meeting, September 20-22, 1972, p. 15.
- "Appeals Court Favors CIA In Marchetti Ruling," *Library Journal*, v. 97 (November 1, 1972), p. 3528.
- "Book Selection Problem," *American Libraries*, v. 3 (December 1972), p. 1159.

- "Bridge Leaves Jail Vowing to Continue in Journalism," *Editor & Publisher*, October 28, 1972, pp. 9-10.
- Brown, Robert U. "Enemies of Freedom Change," *Editor & Publisher*, November 4, 1972, p. 40.
- Burger, Warren E. "Better Courts," *Today's Education*, v. 61 (October 1972), pp. 51-53.
- "California Ban Lifted on Parks' Autobiography," *Publishers' Weekly*, November 6, 1972, p. 25.
- Carrico, Paul. "Violence: Real and Mediate," *Media & Methods*, v. 9 (October 1972), pp. 65-69.
- "Censoring Ads for 'X' Shows is Undesirable," *Editor & Publisher*, October 28, 1972, p. 15.
- Davis, James E. and Eckenrod, James S. "A Process for Selecting Instructional Materials," *Social Education*, v. 36 (November 1972), pp. 714-17.
- "Endorsements May Have Decided Election in '68," *Editor & Publisher*, November 4, 1972, p. 13.
- Flatter, John and Pietrofesa, John J. "Human Sexuality:

- What is the School's Role," *The Clearinghouse*, v. 47 (October 1972), p. 71.
- "Freer Access to Prisoners in New Jersey," *Editor & Publisher*, November 4, 1972, p. 28.
- "Friends of the California Libraries, Board Resolution Re: Proposition 18 Adopted," *CLA Newsletter*, v. 14 (October 1972), p. 2.
- Graebner, Diane Bennett. "A Decade of Sexism in Readers," *The Reading Teacher*, v. 26 (October 1972), pp. 52-58.
- "Hearing Officer Rebuffs LC: Refuses Ringer Case Review," *Library Journal*, v. 97 (November 1, 1972), p. 3525.
- "High Court Declines to Rule in Piri Thomas Case," *Publishers' Weekly*, November 13, 1972, p. 34.
- "Inner City Mother Goose Furor," *American Libraries*, v. 3, (December 1972), p. 1161.
- "It's Time to Hang Up the Hickory Stick," *Nation's Schools*, v. 90 (November 1972), pp. 8-9.
- Knowles, Laurence W. "School Law: High Court Uses Picketing to Tinker with 'Tinker'," *Nation's Schools*, v. 90 (November 1972), p. 17.
- Kriss, Ronald P. "The Anemic First Amendment," *Saturday Review of the Society*, v. 55 (October 21, 1972), p. 28.
- Krug, Judith F. "Intellectual Freedom; The Struggle Continues," *NJEA Review*, v. 46 (November 1972), pp. 16-17.
- Macleod, Celeste. "Prison Law Libraries and You," *Library Journal*, v. 97 (November 1972), pp. 3539-45.
- "Maternity Leave," *Today's Education*, v. 61 (November 1972), p. 43.
- Passano, William M. "A Statement From Williams and Wilkins," *Publishers' Weekly*, November 13, 1972, pp. 17-18.
- "Prison Information Project Presses for Reform," *Library Journal*, v. 97 (November 1, 1972), p. 3533.
- "Proposition 18 Defeated in California," *Publishers' Weekly*, November 13, 1972, p. 34.
- "Reading of Lawyer - Inmate Mail Barred," *Prison Law Reporter*, v. 1 (September 1972), pp. 1-4.
- "Ringer Case in the Lap of the Courts," *Publishers' Weekly*, November 6, 1972, p. 28.
- Rosenberg, Max. "Criteria for Evaluating the Treatment of Minority Groups in Textbooks and Other Curriculum Materials," *Audiovisual Instruction*, v. 17 (November 1970), pp. 21-22.
- "Same Words, Different Tune: Proposition 18," *CLA Newsletter*, v. 14 (October 1972), p. 1.
- Sinowitz, Betty E. "The Academic Freedom Story Today," *Today's Education*, v. 61 (November 1972), pp. 41-43.
- Stevens, Jean. "Access to Personal Data Files: I," *Freedom of Information Center Report*, No. 288, August 1972.
- "The Suit of Williams and Wilkins Co. v. The United States (II): Brief Amicus Curiae to the Court of Claims," *ACLS Newsletter*, v. 23 (Summer 1972), pp. 1-6.
- "Tension Between Staff and Board," *American Libraries*, v. 3 (December 1972), pp. 1161-62.
- Wilcox, Dennis L. "Political Ads: American Dilemma," *Freedom of Information Center Report*, No. 287, August 1972.
- "Williams and Wilkins Agrees to NLM Copying Proposal," *LJ/SLJ Hotline*, v. 1 (October 16, 1972), p. 1.

NEWSLETTER ON INTELLECTUAL FREEDOM
50 East Huron Street • Chicago, Illinois 60611

Newsletter on Intellectual Freedom . . . is published bimonthly by the American Library Association, 50 E. Huron Street, Chicago, Illinois 60611. Subscription: \$5.00 per year. Change-of-address notices, undeliverable copies, and orders for subscriptions should be sent to the Subscription Department, American Library Association. Editorial mail should be addressed to the Office for Intellectual Freedom, 50 East Huron Street, Chicago, Illinois 60611.