newsletter on
intellectual freedom

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intellectual freedom at New York conference

Three major programs on intellectual freedom will appear on the program of ALA's 1974 Annual Conference in New York City, July 7-14. Featured speakers will include two Watergate reporters, a noted children's author, and an outspoken conservative writer.

Reality, Reason, and Children's Rights

"Reality and Reason: Intellectual Freedom and Youth" will explore the complexities of defending and preserving the concept of intellectual freedom in library service to young people. Particular emphasis will be placed on self-censorship and the role of the librarian in preserving intellectual freedom.

Featured speakers will be: Norma Klein, author of *Mom, the Wolfman and Me;* Dr. Richard H. Escott, Superintendent of Schools, Rochester, Michigan; Patricia Finley, specialist in the area of children's services; and Elaine Simpson, specialist in library services to young adults.

Scheduled time for the program is Monday, July 8, 10:00 a.m. to 12:00 Noon. Sponsors of the program are: the Intellectual Freedom Committee, the American Association of School Librarians, the Children's Services Division, the Young Adult Services Division, and the Intellectual Freedom Round Table.

Freedom of the Press

The Intellectual Freedom Round Table's program, "Freedom of the Press: Triumph at Watergate," will feature Carl Bernstein and Bob Woodward, reporters for the *Washington Post* and 1973 Pulitzer Prize winners. The *Post* duo will speak about their experiences in exposing the Watergate scandal, and about the nature and importance of a free press in an open society.

The program is scheduled for Wednesday, July 10, 8:30 p.m.

Free Speech: the Historical Framework

The final program of the week on intellectual freedom will present a conservative viewpoint. Dr. Ernest van den Haag, noted author, educator, and psychoanalyst, will focus his remarks on the historical context of the concept of free expression. Van den Haag is a lecturer at the New School of Social Research and author of *The Fabric of Society* and *Passion and Social Constraint.*

The program, sponsored by the Intellectual Freedom Committee, is scheduled for Thursday, July 11, 10:00 a.m. to 12:00 Noon. A question and answer period will follow van den Haag's remarks.

Published by the ALA Intellectual Freedom Committee, R. Kathleen Molz, Chairman

titles now troublesome

Books

Periodicals

Films

Television Shows

Plays

Operas

'74 obscenity scene

Recent months have seen legal activities in the area of obscenity (or, more properly, against obscenity) in at least thirty-five states. A detailed description of bills introduced, not to mention an account of various appellate court rulings, would require nothing short of several sturdy volumes. Obvious constraints of space and editorial time limit any account here to the brief compilation of legislative measures and court decisions given below.

Actions taken in three states, however, do deserve more than a brief mention.

Delaware and Tennessee get new laws

In late January, Delaware Governor Sherman W. Tribbitt signed into law two obscenity bills, one which offers a civil remedy, and another which prevents outdoor theaters from showing all films that can be viewed from (from beyond the theater confines) outside the theater except those rated *G* or *GP*. The civil remedy law incorporates the U.S. Supreme Court's latest definition of obscenity and provides that civil action can be taken only by the attorney general, one of his deputies, or the chief legal counsel for incorporated municipalities.

Tennessee's new criminal statute, signed March 15 by Governor Winfield Dunn, became law shortly after its predecessor was declared unconstitutional by the state's highest court. The statute, which governs dissemination of materials to adults, includes the Supreme Court's latest guidelines and a "laundry list" of those sexual activities that cannot be depicted in books, films, etc. Procedures for search and seizure are spelled out. Libraries as defined in the Tennessee code are specifically exempted from all provisions.

Pennsylvania measure vetoed

S.B. 737, as amended and adopted by the Pennsylvania legislature, incorporated the most recent obscenity guidelines of the Supreme Court and established the county as the community whose standards are to be used in determining "patent offensiveness." In his veto message, Governor Milton J. Shapp charged that the bill was unconstitutional because it permitted prior restraint and allowed the seizure of materials without a prior hearing. In addition, Shapp said, the legislation would have had the effect of allowing one county in Pennsylvania to "censor books for the entire country" because publishers would be inclined to produce only those works that could meet the strictest controls.

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correction

The correct page numbers for works listed under Titles Now Troublesome in the March 1974 issue are, for *books,* 32, 32, 33, 33, 32, 32, 33, 42, 32; for *films,* 25, 38, 36, 33, 33, 36; for *periodicals,* 33, 39, 32, 35, 36, 41, 41.

let me say this about that

a column of reviews

Issues in Children's Book Selection; a School Library Journal/Library Journal Anthology, with an introduction by Lillian Gerhardt. R.R. Bowker Company, 1973. 216 p. $9.95.

This collection of twenty-nine articles that were originally published in *School Library Journal* and *Library Journal* is particularly welcome at this time when, more than ever before, children's books are becoming objects of censorship attacks and subjects of controversy both within and without the field of children's librarianship. The book is divided into five parts, only one of which is specifically directed at issues of intellectual freedom. However, a reader will find in most of the articles elements that have relevance to the broad question of intellectual freedom for children.

The two articles which most clearly express the two extreme positions in the current debate about children's book selection are Dorothy Broderick's "Censorship—Reevaluated" and James Harvey's "Acting for the Children?" Broderick takes the position that "some things are right and some things are wrong" and that libraries should offer to children only those books which "reflect the sanctity of life" and are "life affirming." While deploring censorship of alternative press periodicals and Piri Thomas's *Down These Mean Streets,* Broderick urges the removal of "racist" books, and she is perfectly logical within the limits of the criteria she has espoused. Harvey, responding to what he calls the "reevaluation syndrom," equates reevaluation with censorship and attacks the "moral value" philosophy of selection.

Because children's librarians work closely with their young patrons and take their reading guidance function seriously, they are perhaps more concerned with the content of books than librarians who serve only adults. Harvey, referring to the Association of Children's Librarians of Northern California discussion of racism and sexism in books considered standard works in children's collections, expressed the opinion that discussion of the content of children's literature may be a "good time filler, but whether or not it is a beneficial endeavor is highly questionable," and he apparently views such discussion with alarm. Since racism and sexism are expressed concerns of many children's librarians, it seems that open discussion is a far better way to offset any possible "danger" than to ignore the questions or to immediately label those who voice the concerns as censors. This anthology provides one forum for such discussion. There are, it is true, some recommendations for the removal of books in these pages. There are also pleas for the inclusion of materials. John Stewig's and Margaret Higg's article, "Girls Grow Up to Be Mommies: A Study of Sexism in Children's Literature," concludes, "... women are not depicted in the rich variety of professional roles in which they are engaged today."

Most of the articles that point out lacks in publishing for children and urge that the limits in books for children be expanded are, however, written not by librarians but by professional writers. Black poet and writer June Jordan, in "Black English: The Politics of Translation," and reading researcher Dr. Kenneth Goodman, in "Up-Tight Ain't Right," call for greater freedom in the language used in children's books. In "From Mad Professors to Brilliant Scientists" science fiction writer Ben Bova discusses the history of science fiction and why kids read it and defends the genre from its detractors. Writer and reviewer Georges McHargue does a similar evaluation in "A Ride Across the Mystic Bridge or Occult Books: What, Why, and Who Needs Them?" Bova: "Some teachers and librarians still insist on using their own standards of propriety in the selection of books for younger readers. But in doing so, they ignore the fact that youngsters have very different standards—and are usually far more aware and knowledgeable about sex, war, drugs, perversion and sadism than their self-designated protectors." McHargue: "Thus occult books, like another despised branch of literature, science fiction, can be mental can openers. If the can in question turns out to be a can of worms so much the better. No one learns to judge between the false and the true without having had experience of both."

The attitude that children must be protected (as Dorothy Broderick would protect them from books that are not "life affirming") is reflected in many of the articles in this collection, articles that are not specifically concerned with intellectual freedom or censorship. The authors may disagree about what it is children must be protected from, but there are few dissents from the opinion that pro-

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Last Tango in Southwest Virginia

By TOM HOLBERG, Times-World Library, Roanoke, Virginia.

The controversial movie *Last Tango in Paris* was recently the object of two battles in Southwest Virginia cities. Roanoke City Commonwealth's Attorney Robert Rider refused to take legal action against the film following approximately twenty citizen complaints, while in Radford, District Judge Richard Davis ruled the film not obscene acording to contemporary local community standards, and permitted its continued showing.

The Roanoke case goes back to last fall, when *Last Tango* opened on October 7, 1973 at the Terrace Theater in Roanoke County. Local Evangelist Bob Porter viewed the film that day, and announced a campaign to ban further showings under the June 1973 Supreme Court rulings. Porter notified Roanoke County Commonwealth's Attorney John Lampros of his intentions, and Lampros and an assistant went to the theater the following day to view the film. Theater manager James Barbary substituted another movie, and *Last Tango* appeared finished in Roanoke.

Within a week, however, another theater, the Towers, announced plans to bring *Tango* back. (Both theaters are owned by the American Broadcasting Company, but the Terrace is in Roanoke County and the Towers is in Roanoke City, two separate and distinct political entities.) At the time of the announcement, a newspaper account quoted Rider as saying he didn't think the film could be prosecuted successfully as being obscene, and told the manager to "go ahead and show it."

On January 26, 1974, several of the ABC Theaters in the region (including the Towers and the Terrace) announced a plan to offer new programs of family movies on Saturday and Sunday afternoons, with special prices. At the same time, they also announced that *Last Tango* would open at the Towers on February 6. The film opened as scheduled, drawing both large crowds and citizen complaints. The primary complaint which led to Rider's involvement came from Dr. William G. Watson, chief psychologist with the Roanoke City Public Schools. Watson filed a complaint with Rider's office, labeling the movie "a sick film" that takes "sick people to watch it." While stressing that his complaint was made as a citizen and not as a school official, Watson stated that he "cannot daily work with children and know that it [the film] is going on" and that the movie "violates all the social and ethical standards" of the Roanoke Valley.

Theater manager Barbary stated that he would be willing to withdraw the film if the Commonwealth's Attorney asked or if overwhelming public sentiment demanded it. Rider's statement made neither necessary. Responding to the complaints, Rider noted that approximately 10,000 people had seen the film in its first ten days, and concluded

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CATV wins a pair

On March 4 the nation's growing cable television industry won two major victories in the U.S. Supreme Court. The decisions are expected to save CATV from major expenses stemming from copyright claims and fees imposed by the Federal Communications Commission.

Copyright law

The Court ruled six to three that cable television operators are not liable for copyright fees for programs picked up from commercial stations in distant communities. Writing for the majority, Justice Potter Stewart extended a 1964 ruling which established that CATV acts only as "an extension of the television set's function of converting into images and sounds the signals made available by the broadcaster to the public." The Columbia Broadcasting System brought suit in 1964 against Teleprompter Corporation, alleging that since CATV systems sell commercials and create programming they are "performers" and subject to copyright law.

Stewart reasoned that by importing signals that could not normally be received by the community, the cable system does not really alter its performance to subscribers. "The reception and rechanneling of these signals for simultaneous viewing is essentially a viewer function, irrespective of the distance between the broadcasting station and the ultimate viewer."

The Court also urged Congress to revise copyright laws: "These shifts in current business and commercial relationships simply cannot be controlled by means of litigation based on copyright legislation enacted more than a half a century ago, when neither broadcast television nor CATV

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bitter-coated sugar pills

By PAULA FOX, whose books include Blowfish Live in the Sea, Desperate Characters, *and* Portrait of Ivan.

In the last few years a new kind of children's fiction has made its appearance. Its manifest intention is to deal with things as they really are, to confront reality. But at its core is a substance that is sticky and familiar. Soap. These fictions, these bitter-coated sugar pills, make a parade of subjects formerly excluded from children's books—subjects that can be subsumed under the headings of familial and social wretchedness, psychological disorder, sexual distress. It is not the themes that are at fault. After all, children's literature, like all literature, can treat any subject without incongruity, providing imagination is not lacking. Rather, it is the breathy unction with which they are presented, the factitiousness of their resolution, that so debase the human experiences these stories purport to deal with honestly.

Real and terrible events are rigged for that new reality supermarket where sexual deviation, divorce, estrangement, drugs, pubescent sexual stirrings, menstruation, and accidental pregnancies among the nubile are packaged as so many commodities for the newly liberated child who, the implication is, formerly resided in a fool's paradise. Let children in on the "truth," on the "facts of life"; no more goody-goodiness. But we are as much at fault as those benighted Victorians in our conception of what a child is and how he feels life. We imagine that reality fairy tales are morally superior to fantasy fairy tales. We offer simulacra of truth to escape truth.

The major fact of life has already been learned by any five-year-old child, though he lacks the self-consciousness to utter it: Life is hard. It's a struggle, as well as a joy, to learn to see, to hear, to walk, to speak, to explain oneself. Childish suffering is no less suffering than any other kind: to cry out alone in the dark, to wait without comprehension of what you are waiting for, to endure pain without comprehension of why you must feel pain, to bear the inexplicable irritations or rages or silences of parents and other grown-ups, to lie and be found out, to lie and not be found out, to be helpless.

Read *Childhood,* by Maxim Gorky, or the opening chapters of James Joyce's *Portrait of the Artist as a Young Man,* or Tolstoy's *Childhood, Boyhood and Youth,* or the early section of Rousseau's *Confessions.* Read Blake:

> My mother groaned, my father wept,
> Into the dangerous world I leapt;
> Helpless, naked, piping loud,
> Like a fiend hid in a cloud.

Read the poems of black children, poor children; look at drawings by the abandoned and orphaned; read the ordinary compositions of any random group of fifth-graders. They already know about disappointment and dread, about longing and hope.

Children have a desire to please, to learn what it is the adult wants to teach him. If what is taught is banal and fatuous, a child will learn to be fatuous and banal too, even at the expense of his hard-won experience. Perhaps it is at the point where a child has learned to dissimulate that he at last joins the "grown-ups."

We offer sentimentalized information about copulation, tricked out with patronizing argot, as insulting to young readers as those "youth" movies ground out by aging film makers whose purpose, one knows, is not only highminded but also passionately financial. At last, we are letting the ignorant child in on the secret.

Yet the real secret we keep to ourselves because we lack the courage and imagination to say it. It is the knowledge of what is is to be human, the knowledge that we are human from the first second we leap into the world, and wail out our first breath. But that secret can only be revealed by the eternal mystery of the imagination, which works gaily with the most terrible truths. We have falsified matters by stressing the distinction between children's and other literature. Distinction is not division, Coleridge said; when the light of the imagination shines, there are no longer children and adults, children's literature and adult literature—only human beings trying to be human.

lack of funds may close women's library

The most extensive collection of women's history documents ever assembled overflows the small Berkeley home of Laura X. But she reports that lack of funds may bring to an end the activities of the Women's History Research Center. Dozens of volunteers have microfilmed the material for use in women's studies courses nationwide.

The collection, begun in 1968, includes clippings, pamphlets, newsletters, periodicals, political position papers, research projects, graphics, poetry, songs, and other information by and about women.

A University of California at Berkeley librarian told Laura X that it would cost approximately $400,000 annually to maintain the collection and answer all information requests. Reported in: *Chicago Sun-Times,* March 25.

censorship dateline

libraries

Bremen, Kentucky

The principal of Bremen Consolidated School removed the March 18 issue of *Time* from the school library because he objected to the exposure of buttocks in *Time*'s photographic coverage of streaking. The issue was on display for a full week before the administrator discovered it.

Rockford, Michigan

A school board decision to remove *Dealing, or the Berkeley to Boston 40 Brick Lost Bag Blues* from the Rockford High School library and rock opera *Tommy* from the school curriculum prompted the resignation of three members of the school's materials review committee. Fifteen parents had complained about a segment of *Tommy* which deals with homosexuality. Used in the previous year, *Tommy* was proposed for continued use without the sexual reference. Opponents to Michael Crichton's *Dealing* found the book objectionable because it contains four-letter words and supposedly glorifies the drug culture. Board member Roger L. Mawby said, "I just don't see where that kind of thing belongs in public schools."

One of those who resigned, Assistant Principal Clinton J. Lindhout, said, "I could live with the fact that the board didn't agree, that's their prerogative. But only three of the board members had read the entire works. At least they could have done their homeowrk." He added, "It became an emotional thing, not one of rational thinking."

In recommending that *Tommy* be kept in classes, the review committee said they were "very impressed with the manner in which *Tommy* was presented to the classes," as well as with student responses. Of *Dealing,* the committee reported: "If the language were different, the representation would not be as credible. In the story of a sea captain, the words would be salty; of a priest, they would be pious. Each would have his own manner of speaking. It would be foolish to present a charming, whitewashed version of the life of a drug peddler to our children. We don't want them to be attracted to this kind of life, but repelled." The committee concluded that those who consider children "delicate, innocent or protected" should examine graffiti in high school restrooms.

It is expected that the rock opera *Jesus Christ Superstar,* now removed from the modern music and literature class and pending review, will be banned from the school. Complaints were received which allege that the opera is "sacrilegious." Reported in: *Grand Rapids Press,* January 31.

schools

Fresno, California

Washington Union High School Superintendent Frank Thompson ordered that the February issue of *The Hatchet,* a student news magazine, be suppressed because of an article on marijuana use which he deemed not in the best interests of the community. Thompson secured a copy of the magazine the day before the usual February 1 distribution and threatened suspension of funds to the staff if the issue was distributed. All copies of the magazine, normally distributed to the 1100 students on the campus, were locked up in the newspaper office.

When contacted, Thompson would not comment on the incident, except to say that the administration plans to pay for having the magazine reprinted without the offending story. He added that the decision to withhold the paper was backed by the board of trustees.

The story included the results of a survey of students on marijuana use, as well as an interview with a physician who pointed out what he considered the harmful effects of marijuana use. The authors of the story said, "It is not the position of *The Hatchet* to condone or condemn the use of marijuana, but only to provide the statistics on this problem." The editor of the paper said she believes the superintendent was upset because the staff did not editorialize against the use of marijuana.

Although the advisor for *The Hatchet* said he thought the article was "objective and responsible," one trustee equated the article with pornography and said he felt it had "no redeeming social value." Reported in: *Fresno Bee,* February 3.

Pasadena, California

Two highly acclaimed supplementary textbooks were banned from Pasadena schools by the Board of Education. By a three-to-two vote two collections of short stories, *Voices of Man–As I Grow Older* and *Voices of Man–Face to Face,* were ordered removed from the supplementary reading list for ninth graders at Pasadena High School. The majority prevailed in having the books banned, despite strong and almost unanimous support for the text from

Superintendent Ramon C. Cortines, teachers, reading specialists, and parents.

One board member said he was against the books because he "found them to be sadistic and morbid and without redeeming value." He said other districts could buy the books but that Pasadena funds would not be spent on such "sickness." One example cited was a story dealing with the death of a retarded child. The story was characterized as virtually worthless. That same story, however, was praised by Cortines, who said he spent years working with retarded children.

When asked if the board was censoring, the board president—in the minority—replied, "We are indeed censoring," and explained further that the voters had empowered the board for that purpose and censorship was not an issue for discussion. Reported in: *Pasadena Star-News,* January 10.

colleges-universities

Chicago, Illinois

Officials at the University of Chicago temporarily cancelled a scheduled speech by political scientist Edward C. Banfield after demonstraters charged the stage of the Oriental Institute auditorium. Members of the Students for a Democratic Society attempted to halt the speech with chants of "Racist Banfield" during an introduction by economist Milton Friedman. SDS objected to the university's sponsoring the lecture, citing the "racist ideas" expressed in Banfield's book, *The Unheavenly City.* Reported in: *Chicago Daily News,* March 21.

Terre Haute, Indiana

Max W. Lynch, for twelve years a professor at Indiana State University, was fired because, he said, he read the Bible on three occasions without comment and without forcing his college students to remain in class. At a hearing before his dismissal it was declared that reading the Bible in a public classroom is a clear violation of the law. The university president said that Lynch ignored orders to "cease and desist" from reading the Bible, and that Lynch "fully intended to violate the constitutional rights of his students by such actions." Reported in: *St. Louis Globe-Democrat,* February 23-24.

Cedar Rapids, Iowa

A short story by a Kirkwood Community College student was withheld from publication because of alleged profanity. Superintendent Selby Ballantyne prohibited publication of the story "Dandelions" in *Bicycle* magazine, which features creative writing and photography. Ballantyne told reporters that he censored the article, describing the reaction of an army sergeant when a soldier arrived late at his army post due to the birth of his first child, because it contained profane language. "We have taken the attitude that what would go into *The Gazette* we would permit, but not beyond that," Ballantyne said.

Board President B.A. Jensen supported Ballantyne's decision and called one passage in the story "vile and filthy." Jensen added: "I take the position that when tax monies or monies from the college support an organ, then we have propriety in reviewing what goes out. If someone wishes to publish their own magazine and furnishes their own finances, then we exercise no such authority." Reported in: *Cedar Rapids Gazette,* March 7.

Lawrence, Kansas

An erotic film festival was halted at the University of Kansas following a visit by Senators Ed Reilly and Chuck Wilson. The Erotic Celebration, a history of the pornographic film, was canceled the day after the senators visited. Although it denied student allegations that the senators threatened the university's budget if the films were shown, the *Wichita Eagle* said editorially that "the very presence of the lawmakers on the campus to view a film is putting pressure on the university when the institution's budget is still under consideration in the state legislature." The senators, the editorial said, "surely knew that their presence on the campus and their viewing of the film would have an effect." Reported in: *Wichita Eagle,* February 1.

New York, New York

U.S. Senator James L. Buckley has called on the directors of the civil rights divisions of both the U.S. Justice Department and the Department of Health, Education and Welfare to investigate whether federal discrimination statutes had been violated in the publication of a cartoon in a City College newspaper. Buckley also stated that he was urging the Council of College Presidents to consider a proposal for "expulsion of any student or group of students who deliberately abuse the tax-supported education institution's power to impose student fees which go to pay the cost of printing and publishing campus publications."

At issue was a cartoon which appeared in an issue of *Observation Post* which also contained satirical pornographic stories. Buckley characterized the cartoon, which depicts a nun using a cross as a sexual object, as "a vicious and incredibly offensive anti-religious drawing." Reported in: *New York Times,* March 10.

Ann Arbor, Michigan

University of Michigan football coach Bo Schembechler's book *Man in Motion* was allegedly censored through the efforts of the University of Wisconsin Athletic Department. Wisconsin officials were reportedly upset at the book because it contains some unfavorable comments about the university in a chapter in which Schembechler discusses an interview for the head football job in 1966

after former Badger coach Milt Bruhn was fired. A University of Wisconsin statement released in February said that Michigan officially apologized to the University of Wisconsin for the book's content, and added that Joe Falls, sports editor of the *Detroit Free Press* and coauthor of the book, had agreed to withdraw the passages from future printings.

Frank Remington, the University of Wisconsin's faculty representative to the Big Ten, denied that the Wisconsin-inspired deletion was censorship. We are 100 per cent for free speech, including for coaches," Remington said. "We are only concerned that false statements are made." Falls refused to comment on the situation, other than to say the whole situation amounted to "Big Ten politics." Reported in: *Madison Times,* February 13.

Laramie, Wyoming

The student senate of the University of Wyoming has asked the regional office of the American Civil Liberties Union to investigate the confiscation of allegedly pornographic films. Several motion pictures were ordered seized by University President William Carlson because he felt that a showing of them would be in violation of the state obscenity law. The University Activities Council had planned to exhibit the films in the Student Union Building. Reported in: *Boxoffice,* February 25.

bookstores

Macon, Georgia

Ken Moffett, the only bookseller in the country charged with distributing obscene literature for selling *The Joy of Sex,* said in January, "I really think I'm being made a monkey of." Moffett is free on a bond of $300 following his arrest last August, shortly after he had examined materials on his shelves in light of U.S. Supreme Court rulings, and after he had written to Mayor Ronnie Thompson suggesting a meeting to discuss obscenity guidelines.

Moffett said that after writing to Thompson he received a call from the city vice squad chief, who said he could not meet with Moffett then because he was going on vacation. "It was the Monday he came back from vacation that they picked the book up," Moffett said. "It was, you might say, a dirty trick." Moffett's arrest stemmed from an anonymous complaint, investigator Ellis Evans said. Reported in: *Atlanta Constitution,* January 19.

Johnston, Rhode Island

The manager of a Johnston discount store who displayed *Playboy* and *The Joy of Sex* at the checkout counter was arrested on a charge of exhibiting indecent literature to minors. The manager, Albert A. Cuccorelli, said the arrest came "definitely as a shock" inasmuch as the store had sold *Playboy* during the year and a half he had been manager there. State Police Lieutenant Edward D. Pare said the arrest was "based on information supplied to this department" that the store was "in fact displaying openly *Playboy* magazine and other questionable literature." Cuccorelli pleaded innocent to the charge. Reported in: *Providence Journal-Bulletin,* February 23.

Orem, Utah

The owner of an Orem bookstore has decided to move, saying she would expect continuous battles with the City Committee on Public Decency if her bookstore continued operation. The owner, Carol Grant, was charged by the city attorney with selling obscene books; the attorney cited such works as *A Clockwork Orange* and Alva Bessie's *The Symbol,* which was on city library shelves at the time. Charges against Grant were dropped when she agreed not to sell the cited books in the city. Reported in: *Ogden Standard Examiner,* March 19.

the press

Utica, New York

Utica Mayor Edward Hanna directed all city department heads not to talk to reporters of the city's two newspapers because of what he termed their "inaccurate, irresponsible, and lopsided reporting out of City Hall." Hanna, who became mayor after a campaign based on the theme of "open door government," required that all questions to city departments from reporters of the *Utica Daily Press* and *Observer Dispatch* be referred to his office. Hanna accused the newspapers of "self-opinionated reporting based on what the editors want." Reported in: *New York Times,* March 8.

television

New York, New York

The American Broadcasting Company canceled without explanation a scheduled telecast of *The Sex Symbol,* a Movie of the Week starring Connie Stevens as a 1950s glamour queen. The movie, a fictional story which parallels the career of the late Marilyn Monroe, was earmarked for broadcast on March 5.

Executives of ABC refused to offer a reason behind the cancellation. Stevens appeared on Johnny Carson's talk show and described some of the film's nude scenes, which she said were strictly for theatrical release in Europe and not for the American television version. Reported in: *Chicago Tribune,* February 16.

ABC also canceled a "Dick Cavett Show" featuring four members of the "Chicago Seven" (Abbie Hoffman, Tom

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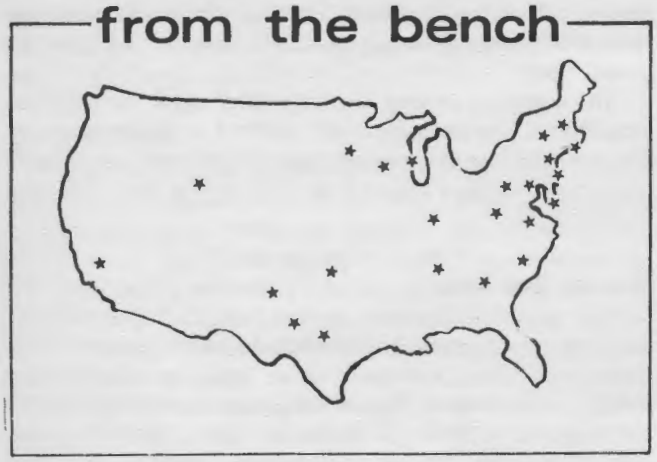
from the bench



obscenity law

Washington, D.C.

The U.S. Supreme Court upheld an earlier federal court ruling that an Ohio law prohibiting the sale of obscene materials by persons holding liquor permits is unconstitutional. The Court affirmed a September 1973 decision of a three-judge federal panel which ruled on a complaint filed by a Columbus package store operator. It was contended that state liquor agents violated his constitutional right to due process under law when they raided his wine and beer store and seized a large number of magazines which they considered obscene. The three-judge panel agreed, holding that materials must be adjudged obscene at a hearing before liquor agents could seize them properly. Reported in: *Cleveland Press,* February 26.

Hartford, Connecticut

A Connecticut Circuit Court judge, ruling against a pretrial motion in an obscenity case, held that the state's obscenity statute is valid despite the U.S. Supreme Court's rulings of June 1973. Judge Burton J. Jacobson denied a motion to dismiss an obscenity charge against a New Britain shop keeper; defense counsel argued that the Connecticut law is unconstitutional because it includes "utterly without redeeming social value" and fails to specify those sexual acts which may not be described or represented in communicative materials. Reported in: *Boxoffice,* February 25.

Little Rock, Arkansas

The Arkansas Supreme Court ruled that a 1967 law prohibiting obscene films meets constitutional standards established by the U.S. Supreme Court. The law, which defines obscene films as those that appeal to the prurient interest according to contemporary community standards, was interpreted to regulate only films that are "patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals." Associate Justice John A. Fogleman, writing for the unanimous court, observed that the *Miller* decision of the U.S. Supreme Court held that sexual conduct could be defined by "authoritative construction" by state courts if not by the wording of the statute itself. He added that the U.S. court specifically emphasized that there was no necessity for state legislatures to pass new laws if existing laws could be construed adequately. Reported in: *Arkansas Gazette,* February 5.

Denver, Colorado

The U.S. Court of Appeals for the Tenth Circuit ordered a new trial in Oklahoma City for a Georgia man convicted of transporting obscene materials for distribution. Melvin Friedman, president of Peachtree National Distributors of Atlanta, was convicted in Oklahoma City in February 1972 for distributing *Animal Lovers,* a book depicting explicit sexual encounters between a woman and various farm animals. In handing down its decision, the appellate court cited recent U.S. Supreme Court decision as a basis for "a reconsideration of the standards applicable to cases of this nature." Friedman was sentenced to two and one-half years in prison and fined $5,000 by U.S. District Judge Luther Eubanks. Reported in: *Oklahoma Journal,* February 9.

Atlanta, Georgia

The Georgia Supreme Court struck down a state law and a DeKalb County ordinance used to close an adult bookstore in DeKalb. At issue were statutes forbidding the operation a bookstore selling obscene materials within 200 feet of a church or residence. Speaking for the court, Justice G. Conley Ingram said the law and the ordinance are unconstitutional because they "attempt to regulate expression which, as defined, is not obscene." The court said that "free expression is rooted deeply in our way of life and cannot be suppressed through statutes which compromise the exercise of this freedom." The store in question was closed by police who acted on a Superior Court injunction declaring the store a public nuisance. Reported in: *Atlanta Journal,* January 30.

Boston, Massachusetts

A motion to discharge a Suffolk County jury venire because of a lack of persons under twenty-two years to sit in cases involving obscene motion pictures was denied by Superior Court Judge Paul C. Tamburello. An attorney for several Boston theaters argued that the exclusion of persons between the ages of eighteen and twenty-one would deprive

his clients of a fair trial. The judge declared that "the defense contends that this age group is more attuned to the sexual climate of the present day, and that the defendants will not receive a fair trial in determining contemporary community moral standards unless there is a sprinkling of the young among the twelve good jurors who will decide the issues involved in these indictments." The judge found that "the present jury venire is composed of members who fairly represent a cross section of the community . . . [and] persons in the age group under twenty-two years of age were not systematically and deliberately excluded from serving on the present venire." Reported in: *Boston Herald American,* February 20.

Brockton, Massachusetts

District Court Judge George Covett dismissed an application for a complaint against a Brockton theater on grounds of blasphemy and obscenity for showing *The Exorcist.* Judge Covett said he found the film in poor taste but saw no grounds for an obscenity charge. The applicant, Rita Warren, had earlier failed in an attempt to have the district attorney issue a temporary restraining order against the film on grounds of obscenity and blasphemy. Reported in: *Medford Mercury,* January 24; *Boston Globe,* February 26.

St. Paul, Minnesota

The Minnesota Supreme Court revised the state's definition of obscenity and warned "those engaged in the sleazy business of pornography that they may no longer take refuge under an umbrella of constitutional uncertainty." The new definition was taken verbatim from the June 1973 U.S. Supreme Court decisions that ordered states to define with specificity the sexual conduct that cannot be portrayed in communicative materials.

Despite the court's stern warning, it reversed the convictions of three Twin Cities book dealers on due process grounds. "In the absence of this specific definition of 'obscene' at the time of the arrest," the court said, the defendants did not have fair notice of what conduct and materials were prohibited. The cases of the three men were remanded to the state court by the U.S. Supreme Court for consideration in light of the June 1973 decisions. Reported in: *St. Paul Dispatch,* March 1; *Minneapolis Tribune,* March 2.

Freehold, New Jersey

A Neptune Township obscenity ordinance was struck down by Superior Court Judge Merritt Lane Jr., who also directed the township to renew the license of an adult bookstore. Lane said that the ordinance, which would prohibit the use of four-letter words in books and also prohibit township residents from having obscene matter in their homes if they had children, "falls far short of complying with the obscenity definition and criteria of the U.S. Supreme Court."

The company owning the store challenged the constitutionality of the ordinance and claimed it was an abuse of the township's police powers and was arbitrary, capricious, and unreasonable. Reported in: *Woodbridge News Tribune,* February 23.

Trenton, New Jersey

The Appellate Division of New Jersey's Superior Court ruled that state laws concerning obscenity preempt local ordinances. The court declared an Irvington ordinance invalid on the grounds that it sought to preempt the state's authority to define and prosecute obscenity. The court said, "The affront against public morals, although of necessity a matter of local concern, is predominately within the domain of the state." Reported in: *Haekensack Record,* January 29.

Brooklyn, New York

The Appellate Division of the New York Supreme Court unanimously reversed the orders of two Supreme Court justices in Westchester who refused to prohibit a showing of *The Devil in Miss Jones.* The court held that the preliminary injunction requested by District Attorney Carl Vergari should have been granted. The film was shown to all the justices of the Appellate Division, who found it "obscene by any standards." The court added: "We further find on the basis of history, common sense and the legislative policy which led to the enactment of our obscenity laws, that the failure to grant a preliminary injunction could cause grave public harm and constitute an unwarranted rejection of legislative intent." The distributors of the film and the owner of the theater have been indicted on the charge of obscenity and face prosecution. Reported in: *New Rochelle Standard-Star,* February 12.

New York, New York

Sexually explicit films involving such fairytale figures as Cinderella, Prince Charming, and Little Red Riding Hood were banned by the U.S. Court of Appeals as patently offensive and without any redeeming features. The appellate court upheld a lower court ruling that the British import *Sinderella* failed to pass the contemporary community standards of Long Island, Brooklyn, and Staten Island.

Writing for the appellate panel, Judge Leonard P. Moore said "probably every judge" of the Supreme Court would admit to an "inability" to define obscenity specifically, but in reaching a decision would "rely" upon Justice Potter Stewart's qualification, "But I know it when I see it." Referring to lower court proceedings, Judge Moore added that it was proper to disregard the testimony of "experts" intro-

duced on behalf of *Sinderella.* Reported in: *New York Law Journal,* February 13; *Philadelphia Daily News,* February 13.

Cleveland, Ohio

The Ohio Court of Appeals lifted a Common Pleas Court order prohibiting an exhibition of *Deep Throat* at the Roxy Theater. The panel overturned the lower court's ruling after attorneys for the theater argued that the film was seized by Cleveland police without a warrant. Because the injunction was civil in nature, the appellate court took pains to emphasize that the guarantees of the Fourth Amendment apply to civil as well as criminal cases. The court said: "The historical roots of the Fourth Amendment indicate it was originally intended to apply to searches and seizures by governmental agents and officers resulting in invasions of the privacy of a man's life." Reported in: *Cleveland Plain Dealer,* February 7.

Nashville, Tennessee

The Tennessee Supreme Court declared the state's pornography statute unconstitutional, thus voiding all state obscenity laws except those prohibiting the sale or display of pornography to minors. In a decision by William M. Leech, a retired chancellor sitting as a special justice, the court said that the statute's terminology "fails to specifically define any sexual conduct" which is prohibited. "Thus," Leech said, "it must be obvious even to a layman that [the statute] is unconstitutionally vague and overbroad."

The court brushed aside a suggestion by the state that the court should take matters in its own hand and draft its own definition of obscenity within the guidelines of the U.S. Supreme Court. The unanimous court declared that such a suggestion should be addressed to the legislature. Reported in: *Chattanooga Times,* February 20.

Texarkana, Texas

One day after *Last Tango in Paris* opened at a Texarkana theater it was adjudged obscene by Justice of the Peace Ben Gregson, who ordered the film confiscated and held as evidence. The manager of the theater was arrested by local police. Reported in: *Boxoffice,* February 4.

Richmond, Virginia

Stating that "we believe a person of ordinary understanding would have no difficulty in determining what sorts of materials would be regarded as obscene," the Virginia Supreme Court upheld the state's obscenity statute. The court rejected an argument by lawyers for a Danville theater manager who maintained that his conviction on an obscenity charge should be overturned because the state law is vague and overbroad. The court contended that previous decisions clearly defined the types of materials that will be considered obscene in Virginia. The court also ruled that obscenity should be defined by local community standards rather than statewide standards. Reported in: *Washington Post,* January 15.

Burlington, Vermont

A federal court jury acquitted distributors of *Deep Throat* of all charges contained in a four-count indictment. The six men and six women jurors returned the innocent verdicts after deliberating six hours on each of two successive days.

Several Vermont officials expressed astonishment that the federal government should spend hundreds of thousands of dollars on the case since no Vermont law had been violated by the exhibition of *Deep Throat.* The U.S. Justice Department stated, "This is part of what will be a national effort to react to the greatly increased activities by producers of pornographic films to distribute them nationally. We will move when it is brought to our attention as it was in Vermont." Reported in: *Burlington Free Press,* March 9.

Madison, Wisconsin

In an unsigned opinion a majority of the Wisconsin Supreme Court ruled that if obscene material is aimed at a particular deviant group, rather than the average person, then such material should be judged by its impact on that group. Although the ruling of the court was in line with rulings of the U.S. Supreme Court, Chief Justice E. Harold Hallows objected to "special treatment" of deviant groups. "I do not believe this state has two standards which this court is construing," said Hallows. "I see no reason why a sexually deviant group should have its own standard of obscenity and be allowed to buy material which the average man cannot. A sex deviant should not have greater rights than the average man." Reported in: *Madison Capital Times,* February 5.

Milwaukee, Wisconsin

Four obscenity cases were dismissed by County Judge Frederick P. Kessler, who said the district attorney's office had failed to offer evidence concerning community standards on obscenity. The judge based his ruling on the June 1973 U.S. Supreme Court decisions and a later Wisconsin Supreme Court decision holding that national standards need not be applied in obscenity cases. Kessler said: "This court in no way can seek on its own what the community standards are. It would not be fair for [me] to walk the streets of this community and ask at random whether people find certain literature proper, improper, offensive or not offensive. The court can speculate and probably would

speculate that a plurality of the community would find that the materials before us are offensive." But, the judge said, "the question the court must determine is whether [a work] falls outside the community standard. The court is placed in a difficult position." Reported in: *Milwaukee Journal,* March 1.

freedom of information act

Washington, D.C.

The U.S. Supreme Court refused to interfere with a lower court order imposing specific burdens on government attorneys attempting to deny access to records sought under the Freedom of Information Act. The high court declined without comment to hear a government challenge to an order imposed by the U.S. Circuit of Appeals for the District of Columbia in suits brought against the Civil Service Commission and the Defense Department. The appellate court ruled that the government must provide the courts and plaintiffs with a detailed description and index of secret documents requested under the Freedom of Information Act. Under present practices, the court said, lawyers seeking government files cannot present effective arguments because they know little more than the general content of the documents. Solicitor General Robert H. Bork urged the Supreme Court to review the lower court order because it would "deprive the government of the opportunity to determine the most effective manner in which to organize and present its case. . . ." Reported in: *Chicago Sun-Times,* March 19.

the press

Washington, D.C.

The U.S. Supreme Court refused to interfere with a Pennsylvania Supreme Court decision that denied press access to state welfare lists. The *Philadelphia Inquirer,* arguing on the basis of the First Amendment, contended that access to the lists was a "vital first step" in examining the government's distribution of more than $1 billion annually. Pennsylvania welfare law permits disclosure upon request "by an adult resident" when uses for commercial or political purposes will not be made. The state court said the newspaper did not inquire about specific individuals and did not prove that it intended no commercial or political use of the information. Reported in: *Chicago Sun-Times,* March 19.

El Cajon, California

An El Cajon ordinance banning newspaper vending racks from public sidewalks was declared unconstitutional by Superior Court Judge Franklin Orfield. The El Cajon City Council last summer ordered removal of the sales racks on the grounds that they were unsightly, constituted a safety hazard to pedestrians, and violated a general rule against selling commodities on sidewalks. Judge Orfield held that when weighed against the First Amendment the arguments were not compelling. He said that "dissemination of ideas and opinions by newspapers cannot be construed as the same as selling commodities on the streets, which are natural and proper places for such dissemination. Freedom of speech is not so much for the benefit of the press alone, but for all of us. It is a basic truism that freedom to circulate publications is essential to the dissemination of ideas and opinions."

Only one newspaper, *The Door,* originally contested the ordinance, and was denied a permanent injunction by another judge in September 1973. Those who later filed arguments in support of a permanent injunction included the California Newspaper Publishers Association; the Copley Press; South Coast Newspapers, Inc.; the Daily Transcript; the Hearst Corporation; the Light Publishing Co.; San Diego Sentinel Publishing Co.; the Star News Publishing Co.; the Times-Advocate, Inc.; and the Times Mirror Co. Reported in: *San Diego Union,* January 26; *Editor & Publisher,* February 2.

Dallas, Texas

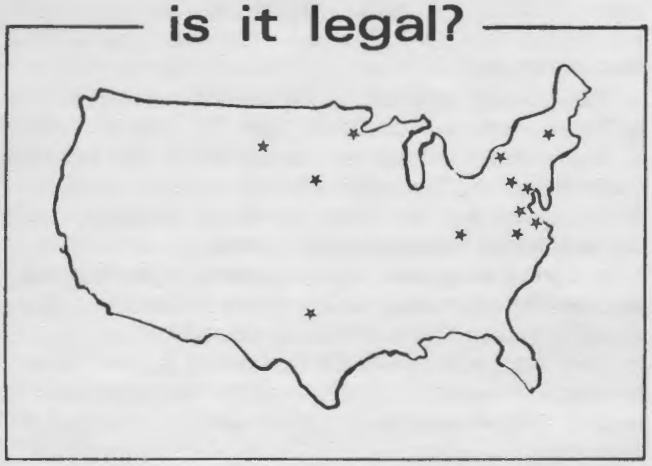
Two reporters for a Dallas underground newspaper, *Iconoclast,* were freed from a six-month contempt of court sentence by the Texas Court of Criminal Appeals. J.D. Arnold and Brent Stein were held in contempt by Dallas Judge Ed Gossett for photographing a Department of Public Safety officer–a trial witness–outside the courtroom while the trial was in recess. The appellate court said that "absolutely no evidence was presented that the accused on trial in the courtroom was prejudiced or harmed by the incident, nor can we see how the state's case was compromised." Commenting on the contention that the agent was endangered by publication of such pictures, the court said that the witness "lifted the veil of secrecy himself the minute he walked into the courtroom and took the stand as a witness in a public trial." Reported in: *Editor & Publisher,* January 26.

Albuquerque, New Mexico

A district Court judge ruled that the *Albuquerque Tribune* was within its rights in publishing the names and addresses of six police officers who had been involved in the fatal shootings of two burglary suspects. The officers alleged that publication of their names and home addresses caused them to receive threats to their lives, families, and properties, and contended that the article violated their right to privacy. In granting motions for summary judgment

(Continued on page 63)

is it legal?



obscenity law

Washington, D.C.

The Adult Film Association of America has asked the U.S. Supreme Court to halt obscenity prosecutions on the grounds that all obscenity statutes adopted prior to the June 1973 rulings of the high bench are unconstitutionally vague. Named as respondents in a writ of certiorari filed by Stanley Fleishman, general counsel for the AFAA, were U.S. Attorney General William B. Saxbe and William D. Keller, U.S. Attorney for the Central District of California. The action came after the U.S. Court of Appeals for the Ninth Circuit refused to reverse a lower court's denial of a request that a three-judge panel be established to hear the case. The AFAA seeks the dismissal of approximately sixty pending criminal prosecutions by the U.S. Department of Justice. Reported in: *Boxoffice,* February 18.

Fort Worth, Texas

Attorneys for the Empire Theater have asked for the appointment of a three-judge federal panel to determine whether Texas obscenity laws are constitutional. The theater's suit was filed after Fort Worth vice squad officers ripped all seats out of the theater and removed the projection equipment and movie screen to prevent a free showing of *Deep Throat.* Assistant District Attorney Joe Shannon Jr. said the raid was conducted under provisions of the new penal code which provide for the confiscation of apparatus used in showing obscene material. Reported in: *Chicago Tribune,* January 23; *Boxoffice,* February 18.

Washington, D.C.

The U.S. Supreme Court agreed to review a judge's ruling that a play can be held obscene because of conduct, such as simulated sex acts, which allegedly is not protected by constitutional guarantees of free speech. At issue is a case which began after the Chattanooga Municipal Auditorium Board refused to permit performances of *Hair* at the Tivoli Theater in Chattanooga. U.S. District Court Judge Frank Wilson concluded that the city's law against public nudity and Tennessee's obscenity statute would be violated by a presentation of *Hair.* The U.S. Court of Appeals for the Sixth Circuit upheld Wilson's ruling, although two other federal appeals courts have ruled that authorities must allow presentations of *Hair* in publicly owned auditoriums. Reported in: *Nashville Banner,* February 19; *Washington Star News,* February 20.

Duluth, Minnesota

The Minnesota Civil Liberties Union filed suit in county district court on behalf of Duluth citizens who are challenging claims by city officials that their petitions for reconsideration of two obscenity ordinances are invalid. The ordinances, passed October 30, 1973, prohibit the sale and distribution of obscene materials and the use of nudity and obscene words in public advertising displays. Petitions bearing the required number of signatures for reconsideration of the laws were rejected by the city attorney on the grounds that two ordinances were placed on one petition. A spokesman for MCLU said: "The right to petition for reconsideration of unjust laws cannot be abridged by the capricious decision of one city attorney, an employee of the city council, particularly when it is the city council's action that is being challenged." Reported in: *St. Paul Dispatch,* March 5.

Newark, New Jersey

Lawyers for the New Jersey chapter of the American Civil Liberties Union have asked the U.S. Supreme Court to affirm a judgment of a lower federal court that voided New Jersey's obscenity law. The ACLU's "motion to affirm" asks the high court to stop what the ACLU calls unconstitutional efforts "to revive the statute by reading a 'redeeming social value' test back into the law and defining other vague provisions." The statute was last year declared unconstitutional by a three-judge federal court on the grounds that it is vague and fails to meet guidelines set by the Supreme Court for obscenity laws. The brief supporting the motion to affirm argues that the attorney general has at different times urged differing interpretations of the law and that "at some point this charade must end." Reported in: *Passaic Herald-News,* February 1.

students' rights

Dallas, Texas

A class-action suit was filed in federal district court challenging the Dallas Independent School District's policy on campus speakers. The suit, filed on behalf of black students by a Dallas Legal Services attorney, names School Superintendent Nolan Estes and the Dallas School Board as defendants. It alleges that the rights of black students were violated by the district's imposition of "censorship." At issue is the district's refusal to allow students to hear controversial speakers or study black literature during a celebration of Afro-American Week.

The district's policy requires that school principals approve every speaker seeking to speak on campuses, and does not allow any person to preach a doctrine or recruit students. Reported in: *Dallas Times Herald,* March 10.

teachers' rights

Minot, North Dakota

The American Civil Liberties Union has filed suit in U.S. District Court against the Drake Board of Education and Superintendent Dale Fuhrman on behalf of Bruce Severy, who was dismissed from his position as English teacher at Drake High School. The incident involving Severy, who assigned to his students works by James Dickey, Kurt Vonnegut, and Robert Penn Warren, received national attention after the school board ordered Vonnegut's *Slaughterhouse-Five* burned in the school incinerator. The ACLU's complaint asks the federal court to prohibit the school board from "arbitrary and unreasonable censorship of reading materials used in English classes at Drake High School." Reported in: *Bismarck Tribune,* February 7; *Des Moines Register,* February 11; *New York Post,* March 14.

prisoners' rights

Washington, D.C.

The U.S. Supreme Court agreed to review a decision requiring federal prisons to grant reporters personal interviews with specific prisoners upon request. The Court will hear arguments brought against the Federal Bureau of Prisons by the *Washington Post* and Ben H. Bagdikian. They have challenged a Bureau regulation banning interviews with all individual inmates, even when requested by a prisoner. U.S. District Court Judge Gerhard A. Gesell ruled in favor of the *Post* and was upheld by the Court of Appeals for the District of Columbia.

Judge Gesell's ruling conflicts with that of a three-judge court in a California case involving the right of inmates of state prisons to speak to newsmen upon request. The high court has ordered the two cases combined for oral arguments next fall or winter. Reported in: *Editor & Publisher,* March 9.

miscellany

Washington, D.C.

The Internal Revenue Service agreed to surrender the home telephone records of *New York Times* reporter David E. Rosenbaum. The action, announced by IRS Commissioner Donald C. Alexander, resolved a dispute between the federal agency and the *Times,* but the IRS did not concede any wrongdoing in obtaining the records.

In a letter to an attorney for the newspaper, Alexander said the IRS was making an exception in the case without changing policy: "I am advised by the chief counsel that in his view there is authority for the Internal Revenue Service to issue a summons to secure telephone toll records in connection with an investigation of possible unauthorized disclosure of tax return information by a service employee."

It has been reported that the IRS might have been interested in the reporter's record because he had been investigating stories of pending tax charges against a major contributor to Richard M. Nixon's 1972 reelection campaign. Reported in: *Editor & Publisher,* March 9.

Albany, New York

The New York Assembly passed and sent to the Senate a bill prohibiting corporate names that are "indecent or obscene," that "ridicule or degrade" any individual, group or government agency, or that "indicate or imply an unlawful activity." Democrats attacked the bill as so broad and vague as to be unconstitutional, and the New York Civil Liberties Union labeled it "unquestionably unconstitutional" and stated that it was in violation of the freedoms of speech and association protected by the First Amendment. It was generally conceded that the bill is aimed at homosexual organizations. The Gay Activists Alliance succeeded in incorporating over the Secretary of State's objections only after taking the case to court. Reported in: *New York Times,* February 28.

Missoula, Montana

A lawsuit brought by a University of Montana professor against two Colorado firms claims that President Nixon suppressed the distribution of a film critical of U.S. tactics during the Vietnam war. The complaint, filed by E.W. Pfeiffer, a zoology professor and producer of the film, alleges that the Thorne Ecological Institute pressured Thorne Films to breach its contract with Pfeiffer for distribution of the film as a result of government pressure.

Pfeiffer contends that Nixon and executives acting for him didn't want the film, *Ecocide: A Strategy of War,* to be available to the public and that government officials put pressure on Thorne Films "to do as little as possible" in distributing it. Pfeiffer said that distribution of the film would have "created an even greater understanding of the

utter destruction the United States had wreaked on the Vietnamese people and land, and would have contributed greatly to an understanding of the environmental effects" of bombings and defoliation tactics. Pfeiffer, who was an outspoken critic of U.S. war policies, produced the film during several trips to Southeast Asia prior to 1972.

A spokesman for Thorne Films said the film was not distributed because of economics and lack of interest in Vietnam after American troops were withdrawn. Reportedly, McGraw-Hill and two television networks rejected it on grounds that its subject matter was outdated. Reported in: *Denver Post,* January 30.

(Censorship dateline from page 56)

Hayden, Jerry Rubin, and Rennie Davis) because the show did not offer opposing viewpoints on a controversial topic. "The program contains discussions of controversial issues of public importance which ABC feels should be balanced on the same program by opposing views," an ABC spokesman said.

Cavett said the cancellation left him with "puzzled wonderment" since he had "amply" offset his guests' views on controversial issues.

A revised program including "offsetting" conservative spokesmen was rescheduled by the network. Reported in: *Washington Post,* February 8; *Variety,* March 6.

(From the bench from page 60)

on behalf of the *Tribune,* District Judge Maurice Sanchez said that the publication of the names and addresses of the officers appeared in a "newsworthy" story and that the "right of privacy is generally inferior and subordinate to the dissemination of news."

"To take into consideration what the consequences might be of publishing such an article would be to deny to the newspaper its constitutional right of freedom of the press to publish what is news, and what the public is entitled to know, and I don't think the court should do that," the judge said. He added that "the court does not find that the newspaper has any duty to afford protection to officers or to any other public official, if they otherwise have the legal right to publish the article and the identity of the persons involved." Reported in: *Editor & Publisher,* March 2.

Montpelier, Vermont

The Vermont Supreme Court ruled that a gatherer of news can be compelled to testify concerning sources of information gathered in the performance of an assignment. But the court added that the information sought must be "relevant and material on the issue of guilt or innocence." The court held that a reporter "is entitled to refuse to answer unless the interrogator can demonstrate to the judicial officer appealed to that there is no other adequately available source for the information." The court was asked to decide whether a Burlington television reporter had to reveal the source who gave him information concerning a drug raid by police in Rutland County.

The Court relied on a ruling of the U.S. Supreme Court in *Branzburg* v. *Hayes.* In that case, Justice William Powell said that the First Amendment affords enough of a privilege to "require a balancing between the ingredients of freedom of the press and the obligation of citizens, when called upon, to give relevant testimony relating to criminal conduct." Reported in: *Editor & Publisher,* February 16.

students' rights

Baltimore, Maryland

U.S. District Court Judge Edward S. Northrop refused to grant an injunction preventing Baltimore County school officials from suppressing two privately mimeographed newspapers distributed by students at Woodlawn Senior High School. However, Northrop gave school officials two weeks to prepare narrowly drawn regulations regarding libel and obscenity and return them to him for approval.

In a similar case involving students in Montgomery County, Judge Northrop had signed a consent order that provided for similar regulations. In the Montgomery County case, the judge said school officials could impose prior censorship on publications for students but only within narrowly drawn guidelines.

The Baltimore County suit, filed by the Maryland chapter of the American Civil Liberties Union on behalf of three students at Woodlawn, involved two publications, *Lampoon* and *Today's World* [see *Newsletter,* March 1974, p. 41]. Reported in: *Baltimore Sun,* February 24.

prisoners' rights

Memphis, Tennessee

Playboy will be made available to inmates at Fort Pillow State Prison Farm under a ruling of U.S. District Court Judge Bailey Brown. The decision came after prisoners who filed suits complaining of restrictive mail privileges requested that the magazine be allowed at the institution. Prison officials contended that "the presence of this periodical will have an erotic effect and tend to increase the incidents of homosexuality." Judge Brown ruled, however, that inasmuch as *Playboy* is on a list of periodicals approved by the American Correctional Association, Fort Pillow inmates should be allowed access to it. Reported in: *New York Times,* February 13.

freedom of expression

Washington, D.C.

Avoiding a ruling on the First Amendment, the U.S. Supreme Court invalidated a Massachusetts flag desecration law on grounds of vagueness. The majority in the six-to-three decision said that the law, which prohibits treating the U.S. flag contemptuously, was not specific enough to give adequate warning of the kind of conduct outlawed.

The case involved the Boston conviction of Valerie Goguen for having a small flag sewn to the seat of his pants. Speaking for the majority, Justice Lewis F. Powell Jr. noted that careless, unceremonial uses of the flag abound. "The statutory language under which Goguen was charged . . . fails to draw reasonably clear lines between the kinds of unceremonial treatment that are criminal and those that are not," Powell wrote. He added that nothing prevents a legislature from writing specific prohibitions into flag desecration laws. A federal flag desecration law was cited approvingly in a footnote. Reported in: *Chicago Sun-Times*, March 26.

(Obscenity scene from page 50)

State-by-state rundown

This compilation is based on information received by the Office for Intellectual Freedom through March 1974.

"Miller" as used here means that the bill in question incorporates the guidelines established by the U.S. Supreme Court in *Miller* v. *California* (413 U.S. 15, 93 S.Ct. 2607 [1973]). "Harmful matter" means that the bill applies to the dissemination of materials to minors.

Any state not listed has no regular 1974 legislative session or has—to the best of our knowledge—experienced no major changes in or court rulings on its obscenity laws.

Arkansas. State supreme court declared state law constitutional (2/5/74).

California. S.B. 39 (criminal code revision) passed by senate (1/21/74), now before assembly criminal justice committee. A.B. 2686 sent to senate (1/22/74).

Delaware. H.B. 70 and H.B. 529 passed by house and senate, signed by governor, effective 3/1/74.

Florida. S.B. 167, which became effective 6/6/73, now on appeal. Five bills, introduced prior to *Miller*, will be carried over: S.B. 1108 (H.B. 1671), S.B. 1229 (H.B. 1670), S.B. 899 (H.B. 1635), S.B. 985, H.B. 1760.

Georgia. H.B. 617 (harmful matter) carried over. S.B. 479 passed senate (1/29/74).

Hawaii. H.B. 2271, H.B. 2372, S.B. 1550 introduced and referred to judiciary committees.

Illinois. H.B. 2005 carried over. Special house subcommittee will hold hearings on obscenity.

Indiana. State statute declared unconstitutional. S.B. 106 *(Miller,* amended to include harmful matter) passed by senate, amended and passed by house, killed in conference committee.

Iowa. Declaration of state law's unconstitutionality now on appeal. S.B. 1066, H.B. 1102 in committee. S.B. 1057 (harmful matter) reported out of committee favorably.

Kansas. H.B. 1595 and H.B. 1640 killed. No other bills pending.

Kentucky. H.B. 232 (penal code revision) and H.B. 383 introduced. H.B. 124 (to prohibit *X* and *R* movies where *G* or *GP* features are showing) passed by house (1/18/74), sent to senate.

Louisiana. State law declared unconstitutional. Legislature will convene (5/13/74); attorney general will recommend a *Miller* law.

Maryland. H.B. 154 still in committee. Hearings were held on H.B. 1338 (S.B. 854) and H.B. 1462 *(Miller).*

Massachusetts. Many bills introduced. Hearings were held on H.B. 4902 *(Miller,* prior civil proceedings), H.B. 1221 *(Miller,* strict penalties), and H.B. 1962 *(Miller,* strict penalties).

Michigan. State law ruled unconstitutional. Several bills in committee, including H.B. 5003 *(Miller),* H.B. 5038 *(Miller),* H.B. 5080 *(Miller),* H.B. 5434 (pre-*Miller),* and S.B. 1092 (modified *Miller).*

Minnesota. State supreme court declared state law constitutional, added *Miller*-type definitions. S.B. 389 (H.B. 526) prohibits exhibition of material harmful to minors; hearings were held by senate committee. S.B. 1152 (H.B. 939) increases present penalties.

Mississippi. S.B. 1821 died in committee.

Missouri. Two bills were carried over: H.B. 418, H.B. 88. A new bill, H.B. 1061 *(Miller),* is in committee. Other bills: H.B. 1502 (criminal code revision), S.B. 516 *(Miller).*

Nebraska. Carried over: L.B. 8 (pre-*Miller)* and L.B. 329 (criminal code revision). Hearings were held on L.B. 815 *(Miller;* harmful matter) and the bill was reported out of committee favorably. Hearings were held on L.B. 329; bill was referred back to committee.

New Jersey. State law held unconstitutional. Tug-of-war between federal and state courts continues. S.B. 25, S.B. 69, S.B. 74 referred to judiciary committee.

New York. Present law declared constitutional. A. 10854-A passed by assembly. S.B. 7967 passed by senate.

North Carolina. Present law declared constitutional. Hearings were held on S.B. 2679 *(Miller),* introduced by judiciary committee chairman. Hearings held by house committee on H.B. 1422 *(Miller),* H.B. 1708, H.B. 1880, H.B. 1890.

Ohio. Present law held constitutional. Hearings were held on two bills, H.B. 1021 and H.B. 1022 (both *Miller* bills). S.B. 428 (H.B. 1022) is in committee.

Oklahoma. Two bills carried over. S.B. 146 (harmful

matter) and S.B. 22 (pre-*Miller* criminal code revision).

Oregon. S.B. 708 *(Miller;* signed into law 7/73) referred to voters (referendum to appear on 11/74 ballot).

Pennsylvania. S.B. 737 passed by house and senate; vetoed by governor (3/1/74).

South Carolina. Several bills carried over: H.B. 1128 (to establish study committee); S.B. 583 (to establish study committee); S.B. 278 (H.B. 1605), a major criminal code revision; H.B. 1112. H.B. 2465 (to establish "pornography control" office under attorney general) was referred to judiciary committee.

South Dakota. H.B. 735 *(Miller)* as amended to apply to harmful matter only was passed by house.

Tennessee. S.B. 1880 passed and signed into law (3/15/74). Provides library exemption.

Texas. S.B. 34 (major criminal code revision; pre-*Miller)* became effective 1/1/74.

Vermont. H.B. 373 (modified *Miller;* harmful matter) and H.B. 415 (authorizes municipalities to regulate obscenity) in committee.

Virginia. Present law held constitutional. The Virginia Code Commission has drafted a proposal to modify law but proposal has not been introduced as a bill.

Washington. H.B. 122 passed by house, now in senate judiciary committee.

West Virginia. H.B. 627 passed by house and senate.

Wisconsin. Present law ruled constitutional (state supreme court construed it to include *Miller).* S.B. 522 (increases penalties) in committee.

It should be noted that this compilation does not reflect any legislative or court actions after March 29. Because of difficulties in keeping our records up to date, as well as problems in locating errors and omissions, assistance from readers will be appreciated. Please send news reports, copies of bills, etc., to: Office for Intellectual Freedom, American Library Association, 50 East Huron Street, Chicago, Illinois 60611.

(Let me say this from page 51)

tected they must be. A corollary to this position (and one that also appears frequently) is the idea that books do something to children and what they do should be good for children. Sheila Egoff would protect children from mediocrity in their reading. Ann Kalkhoff advocates explicit realism in books for children but would join Dorothy Broderick in protecting children from racism and sexism in their books. Mavis Wormley Davis would either remove racist books altogether or have them edited "to remove social stereotypes or to reduce ethnocentricity." Even books on the environment must do something to (or for) children. Katherine Heylman says they should "instill certain broad concepts."

Perhaps the most valuable piece in the book (because it recognizes that children are people, not blank slates or sponges) is "The Courts and the Child/Tinker vs. Des Moines Decision," which introduces and reprints a statement from the Supreme Court ruling in the case of *Tinker* v. *Des Moines.* The ruling argues that students are entitled to the full protection of the First and Fourteenth Amendments in expressing their political views peacefully. This landmark decision in children's rights has bearing on any consideration of the rights of children to library materials.

Although the quality of the articles in this anthology varies (a few are little more than over-long bibliographical essays with a few nuggets of selection philosophy or practice sprinkled along the way), it does provide a convenient survey of what issues in children's book selection have been on the minds of children's librarians, writers of children's books, and others during the past five years. Lillian Gerhardt's descriptive introduction makes observations about the state of critical writing on children's literature and selection practices and also offers the useful suggestion that readers follow up their reading of this book by checking issues of *SLJ* for the correspondence that flowed in after each article was originally published.

Reading these articles in a short space of time rather than over the period of years that saw their first publication makes one aware of the areas that need more debate. Why does there seem to be a prevailing attitude among children's librarians that children must be protected in one way or another and how does this attitude affect the selection of library books for children? What is propaganda? Should we protect children from it? Do we promote it? What is the difference between library selection and literary criticism and should one affect the other? Have children's books achieved recognition as a part of literature and if they have must we keep defending those never precisely defined "standards?" Should library selection perform the function of reading guidance? Why is it that adults attach purpose to books for children and ask that children's books perform a variety of socializing functions? The original publication of many of these articles stirred up argument. Let us hope that their republication in book form will stimulate more debate on these and other questions.–*Reviewed by Patricia Finley, Children's Services Consultant, Onondaga Library System, Syracuse, New York.*

Mother of Her Country. Alan Green. Random House, 1973. 210 p. $5.95.

The dust jacket aptly calls it "a comic novel about pornography and censorship": small-town Ohio girl escapes home to "get into publishing" in New York, meets civil libertarian publishers, poets and lawyers, is hired to write socially redeeming passages for porno paperbacks. Formidable Momma, chief crusader for Americans for Clean Entertainment, takes to Senate hearing rooms and talk show airwaves to bemoan and denounce; straight-laced New Jersey ACE members bring suit to remove a "socially redeemed" book from the public library. In the midst of the

legal battle, our heroine and her young lawyer discover (in an antique bed–guess how) a diary which casts doubt on the character of our father, G. Washington. Amid the resulting furor, Momma helps form a new national organization, Defend America's Founders From Slander (DAFFS), whose lobbying is countered by the unofficial DILS (Don't Inhibit Legitimate Scholarship). The fun snowballs as an irate chicken farmer sues for defaming the character of his ancestress, the librarian is bleeped on late-night TV, the library board twitches, one book is burned, and a second diary turns up.

It's all enormously amusing and readable; Mr. Green has a flair for outlandish situations and throwaway lines, and the social/political message is a timely one. Although, as the forward states, "the events of this story occur in 1972 when, in most of these United States, social value was still considered redeeming," the New Jersey trial actually hinges on a community standards test of obscenity. The court scenes serve to present various aspects of the censors' arguments vs. the First Amendment defense, and demonstrate the virtual impossibility of identifying an "average man" or determining just what "community standards" really are. Discussions, both within and outside the courtroom, of the dual authorship of the challenged books shed a thought-provoking light on the now sadly irrelevant "socially redeeming value" concept, and provide interesting statistics on the commercial success of porno publishing under varying degrees of prohibition.

Intellectual freedom advocates will be pleased to find plugs for the IF activities of ALA, AAP, the Authors' League and the ACLU. Librarians will read with amusement remarks about the JLA ("Jersey Library Association"), and may welcome the image of a swinging, with-it librarian storming through a popular novel. *Mother of Her Country* is a very funny book, and deserves to be widely read. It is *not* a literary classic. The characters are little more than two-dimensioned stereotypes; the trauma-less transformation of a naive small-town virgin into a living-in-sin-city-sophistocate is hard to swallow; hero and heroine are rather like liberated Bobbsey twins, all apple pie and patriotic principles–and cuddly sex. It is even possible that the book may buttress the censors' attitudes, since all the anti-censors appear to have abandoned the traditional wedded-bliss-only approach to sexual activity in their own lives. But perhaps this is an idle worry; it isn't likely that many censors will read *Mother of Her Country* (there really are no sex scenes). And those who do partake of this rollicking romp through the effete snobs' New York living rooms and a radical backwater in New Jersey will find not only entertainment but also some easily-digestible ideas and information which may prove very useful in the legal and attitudinal battles which lie ahead.–*Reviewed by Pamela W. Darling, Head, Preservation Programs Office, New York Public Library.*

Fear In the Air–Broadcasting and the First Amendment: the Anatomy of a Constitutional Crisis. Harry S. Ashmore. W.W. Norton Co., 1973. 180 p. $6.95.

As the subtitle indicates, Ashmore's book anatomizes the broadcast crisis clouding Richard Nixon's White House tenancy. The subtitle also misleads somewhat in its use of the word broadcasting, for the main concern centers around the problems of the television medium. No reference is made, for instance, to the earlier radio broadcast crisis in Franklin Roosevelt's presidency. Therefore it is no first text for the student of free speech but, rather, more of a laboratory manual to accompany the Nixon experiment seen as a segment of the long First Amendment struggle.

The opening chapter delineates the situation as of the end of 1972. Next comes a report of a two-day conference on broadcasting held in January 1973 at the Center for the Study of Democratic Institutions, Santa Barbara. Ashmore himself then interprets, integrates, and explains the wide range of ideas representing the divergent views of those attending the conference.

Starting with the dimensions of the controversy between the administration and the journalists, the report moves chapter by chapter through the adversary role of the press and broadcasters, the right of access to information, the public television network, the political atmosphere presently bearing on news gatherers, and finally to the alternative to regulation, namely, self-policing and self-censorship of the journalistic community by a council which the journalists themselves elect.

Ashmore knows his craft; yet he leaves this reviewer frustrated by the book's dearth of conclusions. It's like just having read The Lady or the Tiger.–*Reviewed by Don E. Gribble, Director, Hibbing Public Library, Hibbing, Minnesota.*

Pornography and Sexual Deviance. Michael Goldstein and Harold Kant. University of California Press, 1973. 194 p. $7.95.

On June 21, 1973, as part of its most recent landmark decision on pornography, the U.S. Supreme Court decreed that in the absence of conclusive evidence to prove that pornography is *not* causally related to antisocial and criminal sexual behavior, local legislative bodies may assume such a relationship. In the opinion of the court, a community thus has the right to protect itself by legal censorship of threatening materials. No one knows what will be the eventual impact of this decision on the ideal of intellectual freedom. It requires no great exercise of the imagination, however, to conceive that influential elements in some communities may interpret the ruling as license to purge from bookstores and libraries almost any item which they find personally offensive. Under these circumstances, it is vitally important that we, as a society, explore in-

tensively the nature of the relationship between pornography and sexual deviance.

This study was originally commissioned as a research project for the Effects Panel of the Commission on Obscenity and Pornography. Findings were summarized in the *Report* of the Commission and are available in volume 7 of the Technical Reports of the Commission, printed by the Government Printing Office in 1970. The authors claim that republication in book form has provided the opportunity for more sophisticated analysis of the data, and that increased interest will be generated for a topic of substantial social significance.

In pursuit of scientific data on the effects of pornography in the development of nonheterosexual or antisocial sexual behavior, the study concentrated on groups consisting of extensive users of pornography, including convicted rapists and child molesters, transsexuals, and homosexuals. The control group was selected from neighborhoods in Los Angeles whose populations displayed demographic characteristics similar to the group of criminal offenders. Each individual was interviewed according to a lengthy, self-validating, in-depth questionnaire which probed increasingly sensitive areas as the interview progressed. Information was elicited concerning the frequency of exposure to erotic stimuli during preadolescence and adolescence; the impact of one's most vivid adolescent experience with erotica; frequency of exposure to and most vivid experience with erotica during the previous year; and the relationship between fantasy and reaction to erotic stimuli.

The results of the analysis indicated that each of the deviant groups had been exposed to less pornography as adolescents than had the controls. When exposure did occur, deviants reported feelings of guilt to a greater degree than controls.

The authors conclude that there is little evidence in their data to suggest a causal relationship between exposure to pornography and antisocial sexual behavior. As the control group described it, the normal adult pattern of behavior on viewing erotica is characterized by mildly pleasurable arousal and a temporarily heightened probability of engaging in sexual activity, provided a suitable partner is available. Noncriminal deviants follow the same pattern. Criminal sex offenders, however, seem inhibited by guilt or disgust when viewing pornography, so that their arousal tends to result in masturbation rather than in overt imitation of the behavior which is symbolically portrayed. The most remarkable finding of the study has to do with the observation that all deviant groups reported a low level of exposure to erotic stimuli as adolescents. The authors hypothesize that this may have resulted in part from a desire to avoid distressing heterosexual portrayals which would have aggravated anxiety about the individual's confused sexual identity. In part, the low level of exposure seems to be a consequence of a restrictive or punitive home atmosphere.

Pornography and Sexual Deviance provides us with a carefully planned and unusually literate statement that contributes to the dispassionate and rigorous exploration of an area important to those who hold intellectual freedom to be an essential element of a free society. The authors properly indicate that their findings are of a preliminary nature and need to be validated through replication in other research contexts. Had the study been much more conclusive than it is, however, it would still lack the power to alter immediately the course of censorship in our society. It will take more than a research report by some "pointy headed intellectuals" to make the censor sensitive to the irony suggested in this work, that his activity may well contribute to the behavioral problems for which the pornographer is being blamed.–*Reviewed by Jerold Nelson, School of Librarianship, University of Washington.*

Court and Constitution in the 20th Century: The Modern Interpretation. William F. Swindler. Bobbs-Merrill, 1974. 286 p. $12.95.

This supplement to the authoritative two volumes which this William and Mary law professor wrote a few years ago as a history of the Supreme Court in our era *(Court and Constitution in the 20th Century: the Old Legality, 1889-1932; the New Legality, 1932-1968)* would make a very fine *vade mecum* for any librarian or library trustee concerned with current constitutional issues and Supreme Court decisions. Although only a few pages are directly concerned with First Amendment questions of free speech and press, the entire volume provides an ambiance, an atmosphere which helps explain what might otherwise seem rather capricious or arbitary or even contradictory recent Supreme Court decisions. Most references are to specific cases, with the entire volume organized as a gloss upon the articles of and amendments to the U.S. Constitution. The book does not require a legal background, nor is it to be considered as in any way an argumentative one. As Sergeant Friday of *Dragnet* fame says, "The facts, just the facts" are here; and every American needs to know the facts about his Constitution and how various Supreme Court decisions have affected its interpretation in the last thirty years or so.–*Reviewed by Eli M. Oboler, University Librarian, Idaho State University, Pocatello, Idaho.*

(Tango from page 52)

that "if it be the feeling of the approximately 92,000 citizens of Roanoke that the film, taken as a whole, lacks any serious literary, scientific, political or artistic value, then let them express it by not attending." While admitting he hadn't seen the film, Rider based his opinion on reviews of the film, including a favorable review which appeared in the local evening paper.

The Radford case is probably more significant, in that it involved an interpretation of the June 1973 Supreme Court rulings. Prior to the movie's opening in Radford, the theater carried an advertisement recommending that no one see the movie, and stating that they were scheduling it for a nine-day run only because many people had requested it. "It's not a good movie, and I'll be the first to admit it," said theater manager Brent Warden. The film opened February 13, and police confiscated the film and arrested Warden the following evening as a result of a complaint by the Rev. Lloyd B. Cole Jr., a Radford lay evangelist. (Cole, in an interview published in a local paper, admitted seeing the film three times, and stated that not all the movie's obscenity concerned sex. He thought the scene of the middle-aged woman putting in her false teeth was obscene because it showed her in what he called an unnatural act.) District Judge Richard Davis viewed the film February 15 at a private showing, and ruled it not obscene according to contemporary community standards in Radford. "I think it was depressing but not obscene," said Davis. As a result, the film was returned to the theater and completed its scheduled run.

In summary, several points seem relevant. First, these two cases occurred in relatively conservative areas, with large memberships in fundamentalist churches. Two of the three primary complainants, Porter and Cole, represent fundamentalist beliefs. Second, the theater management did not appear overly courageous in either instance. The Roanoke theater would probably have withdrawn the film a second time rather than risk a court case, and the Radford ad advising potential customers to stay away is certainly a curious approach to business. Finally, the Roanoke papers, especially the evening *World-News,* were fairly active in defending the movie, with several editorials, two cartoons, and a favorable review. While it seems unlikely that the favorable press was instrumental in the case, it certainly encouraged a reasoned approach to the matter. Quite probably, a virulent campaign by the press could have precipitated the movie's withdrawal by theater management or made Rider's stand more difficult.

Despite the apparent successes, however, the battle seems likely to continue, even though *Last Tango* has completed its run in both cities. Radford opponents of the judge's ruling are attempting to establish a local reviewing board to judge movies according to Radford's community standards. They hope to make such a board an issue in the May 7 city council election.

obscenity paradox?

"All Cretans," an ancient Cretan once said, "are liars." From such humble beginnings arose the old philosophical paradox of statements which, if true, are false. Now, many centuries later, lawmakers may face a similar paradox in their attempts to comply with rulings of the U.S. Supreme Court that require obscenity statutes to define specifically the kinds of sexual conduct that cannot be depicted in a "patently offensive manner."

Recently, the editor of a Winchester, Indiana paper told the village councilmen that their new obscenity ordinance was so explicit that he could not print it. And a *Salem News* account of an ordinance passed by Danvers, Massachusetts selectmen was larded with such bracketed comments as "sections *d* and *c* are unprintable."

It appears that scholars of jurisprudence may be called upon to solve a new problem: Can a law violate its own provisions?

revision of FOI act

A bill (H.R. 12471) amending the Freedom of Information Act—to plug loopholes in agency responses to citizens' requests—was passed March 14 by the House of Representatives; the vote was 393 for, 8 against. A similar bill (S. 2543) was introduced in the Senate by Senator Edward M. Kennedy and referred to the Judiciary Committee.

H.R. 12471 provides that a judge "may examine the contents of any agency records *in camera* to determine whether such records or any part thereof shall be withheld under any of the exemptions" of the Act. The bill also requires the government to pay "reasonable attorney fees and other litigation costs" in any case in which an agency does not prevail.

Two companion bills were also introduced in the House: H.R. 12462, to enact into law Judge John J. Sirica's ruling on the limits of executive privilege; and H.R. 12004, to set up a legislative system to oversee the declassification of documents. Both bills were deemed more controversial than H.R. 12471.

For further information regarding freedom of information legislation, contact: William G. Phillips, Staff Director, Foreign Operations and Government Information Subcommittee, Room B371 Rayburn Building, Washington, D.C. 20515.

(CATV from page 52)

was yet conceived." A copyright bill now languishes in the copyright subcommittee headed by Senator John McClellan (D.-Ark.).

FCC fees

The Court also ordered the Federal Communications Commission to reappraise the annual fee (thirty cents per subscriber) it charges the cable industry on the basis of services rendered. The ruling drew a sharp distinction be-

tween charges the FCC may assess to recover the full cost of its regulation of the cable industry and those functions which are of value to the recipient.

Speaking for the Court, Justice William O. Douglas noted that the FCC may exact a fee which bestows benefit on the applicant, but the agency cannot tax industries to recoup the other services it renders the public. "It is not enough," Douglas said, "to figure the total cost to the Commission for operating a CATV unit of supervision and then to contrive a formula that reimburses the Commission for that amount. Certainly some of the costs inured to the benefit of the public, unless the entire regulatory scheme is a failure, which we refuse to assume." Reported in: *Chicago Sun-Times,* March 5; *Variety,* March 6.

Moss chides broadcasters

Speaking before a Los Angeles convention of the National Association of Television Program Executives, Senator Frank E. Moss (D.-Utah) said that self-censorship by broadcasters courts the very government censorship that they fear.

Moss said, "When you justly express fear of government encroachment on the freedom of the broadcaster to resist government-sponsored propaganda in any form of programming, I'm with you and the American public is with you. But when you allow yourselves, with a rather exaggerated sense [to defer] to your advertisers for the simple human wish to avoid controversy, or to shield the American public from a hard look at the realities of our problems and institutions, then you have become the censors, and you are violating our First Amendment rights–the right of access."

Moss assailed the producers of "Marcus Welby, M.D." for deleting from one episode "important relevant dialogue which would have explained to the public, to some extent, the need for health insurance." Moss asked whether the segment was deleted because the American Academy of Family Practice and the American Medical Association had reviewed the script prior to its airing. Reported in: *Variety,* February 20.

Bork on "free" speech

In 1971, at the Indiana University School of Law, Robert H. Bork delivered a lecture that he said might "strike a chill into the hearts of some civil libertarians." Bork said that "constitutional protection should be accorded only to speech that is explicitly political. There's no basis for judicial intervention to protect any other form of expression, be it scientific, literary, or that variety of expression we call obscene or pornographic." Within the category of political speech, Bork concluded that there should be "no constitutional obstruction to laws making criminal any speech that advocates forceful overthrow of the government or the violation of any law."

Now that Bork is U.S. Solicitor General, *Los Angeles Times* reporter Robert J. Donovan decided to discuss the lecture with him. Bork told Donovan, "I would be appalled if people suppressed a novel or a scientific work or if you couldn't teach evolution–or algebra. We might revert to the Stone Age." Bork said he was suggesting that "we can appropriately rely on the good sense and level of sophistication of the general community. I wouldn't think there would really be any problem raised with any form of expression other than hard-core pornography or the case of some hamlet somewhere that bans a movie that is foolish to ban. . . ." With regard to laws that would make criminal speeches advocating the overthrow of government, Bork said it would be "foolish and stultifying for a society to be so nervous about itself that it cannot tolerate some of that." Reported in: *Chicago Sun-Times,* February 8.

CE bishop attacks censorship

The Church of England released a hitherto unpublished article on censorship by the late Dr. Ian Ramsey, the former Bishop of Durham, in which he argued that censorship restrictions inhibit serious and legitimate criticism, tend to foster repression rather than liberal attitudes, and arouse the desire for what is forbidden.

Ramsey concluded that "if censorship is justified on some occasions, such justification . . . must always presuppose a vision of some ideal." With such a vision, "the need for censorship will be severely reduced; without it censorship is an intolerable affront to personality, a suppression of personal freedom."

Ramsey added that some of the psychological dangers of censorship could be avoided if its function was obviously seen to be the maintenance of the basic commitments on which the society depended for its existence, rather than the protection of some people by others. The problem of censorship, he said, was one version of the problem of paternalism.

The bishop's article appeared in *Crucible,* a publication of the General Synod Board for Social Responsibility. Reported in: *Manchester Guardian,* January 15.

Marchetti case may go to Supreme Court

The long battle between Victor L. Marchetti and the Central Intelligence Agency over Marchetti's book, *The CIA and the Cult of Intelligence,* may continue until the U.S.

Supreme Court resolves certain broad First Amendment issues.

The court battle bagan in April 1972, when the government brought suit against Marchetti and obtained an injunction against publication of classified materials obtained in the course of his employment. In a decision upheld by the U.S. Court of Appeals, the author was ordered to submit his manuscript to the CIA for review prior to publication.

Through negotiation, Marchetti and co-author John D. Marks won permission to print nearly half of the 300 deletions made in the manuscript by the CIA. But Knopf, publisher of the work, has challenged the Agency's classification procedures and its right to exercise prior restraint over publication of the book.

During the course of the trial in U.S. District Court, Judge Albert V. Bryan refused to admit testimony on First Amendment issues raised in the case. Bryan is expected to rule on the validity of specific deletions demanded by the CIA. Reported in: *Publishers Weekly,* March 18.

Cranston opposes reply law

U.S. Senator Alan Cranston (D.-Calif.) voiced opposition to any move in Congress to enact a law that would compel newspapers to print replies of political candidates whom they have criticized. "I oppose government editorship of a free press as strongly as I oppose government censorship," Cranston said in remarks prepared for delivery on the Senate floor. He spoke in response to a suggestion last week by Senator John McClellan (D.-Ark.) that there is a possible need for a "national right to reply law."

Cranston said this "dangerous and deplorable" situation exists already in radio and television and pointed to a recent order by the Federal Communications Commission requiring the National Broadcasting Company to "balance" with additional programming a recent documentary, "Pensions: The Broken Promise." Reported in: *Editor & Publisher,* February 16.

new study of government secrecy

A study of the critical information gap between the government and the public is being undertaken for the Twentieth Century Fund by a former White House official. Morton H. Halperin, who was on the senior staff of the National Security Council during President Nixon's first year in office, will examine and report on the problem of balancing the government's need for secrecy in the interests of national security and the rights of citizens to information about government activities.

The eighteen-month Fund study will analyze several aspects of governmental restrictions on information involving national security, including the classification of sensitive information; legal measures such as prior restraint on publishing secret information; criminal sanctions such as the espionage and conspiracy laws; attempts to withhold information from the Congress; and the entire problem of protecting covert operations.

"The study assumes that the United States keeps too much information secret for the effective functioning of the constitutional system," Halperin said. "The problem is to expand the flow of information while protecting legitimate secrets, not only because of a concern with civil liberties but also because of the belief that policies which effectively promote national security are most likely to derive from free debate involving the public, the press, and the Congress as well as the executive."

will privacy bill infringe on press?

Speaking on behalf of bills pending in both Houses of Congress to regulate the use of criminal justice information, Attorney General William G. Saxbe said that there is "a substantial danger that the rights of privacy of individuals could be infringed upon by our criminal justice information systems."

The provisions of legislation introduced by Senator Roman Hruska of Nebraska with co-sponsorship of eleven other senators, including Senator Sam J. Ervin Jr., would require all criminal justice systems to adopt procedures consistent with regulations promulgated by the attorney general. These include a program of verification and audit to assure that records are regularly updated; limited access of dissemination of information; and denial of use of criminal justice information in the case of any agency or person—other than a criminal justice agency—who obtains criminal record information and uses that information in violation of the act.

Editor & Publisher states that the changes will undoubtedly "stop reporters from obtaining, and hence newspapers from publishing, information that has long been the stock in trade of newsmen covering police beats or criminal trials." Reported in: *Editor & Publisher,* March 9.

news council gets no help on "outrage"

The National News Council failed to secure from the White House "specific instances" that would support President Nixon's charges of "outrageous, vicious, distorted" television network news reporting, and deferred further action on the matter. The Council concluded that "it would be difficult, if not futile, for the Council to attempt to

deduce, from broad and nonspecific charges, the particular action of the television networks that inspired the President's remarks at his news conference on October 26, 1973."

The Council expressed its willingness to renew its investigation if the White House were willing to supply a list of specific instances. The Council said, "We believe it is seriously detrimental to the public interest for the President to leave his harsh criticism of the television networks unsupported by specific details that could then be evaluated objectively by an impartial body."

Presidentail Press Secretary Ronald L. Ziegler stated that "the White House would cooperate if the Council provided examples of what it wanted." Ziegler said he preferred to see a broad-based study of White House-media relationships and suggested that a time span beginning with the Cambodian intrusion to the present would make sense. Reported in: *Editor & Publisher,* February 2.

Soviet bans Solzhenitsyn works

Immediately after Alexander I. Solzhenitsyn was exiled to the West, USSR authorities ordered that all the author's works published in the Soviet Union be removed from public libraries. The order, dated February 14, came from the "Main Department of Protection of State Secrets in the Press." Since Solzhenitsyn's recent works have been banned in the Soviet Union, the order reportedly affected only the novel *One Day in the Live of Ivan Denisovich,* published in 1962, and four short stories, the last of which was published in 1966. Reported in: *New York Times,* March 17.

porno fight fizzles

On the assumption, I suppose, that one should know one's enemies, leaders of the Dayton and Montgomery County Council of PTAs decided to show sexually explicit films to PTA members. The effort was characterized as an "awareness program."

Jack E. Staley, an attorney who heads Decency for Greater Dayton, Inc., promised his cooperation and offered to provide films portraying, inter alia, cunnilingus, fellatio, and bestiality.

The first sign of trouble came when the Dayton school board accepted the advice of its counsel against using public schools for the program. PTA President Jane Curtis vowed to find an alternative site and settled on St. Helen's Catholic elementary school.

An unexpectedly vigorous debate at the PTA's first attempt at awareness ended the show after one ninety-second film clip. Some members of the audience said the program was aimed at an infringement of rights and suggested that the PTA should direct its efforts against violence. "I never thought it would come to this," Curtis said. "But I guess it's healthy. At least they're thinking." Of the five programs scheduled, only two were held.

An editorail writer for the *Dayton Daily News* (Jan. 24) argued that the PTA program "would seem to be further proof that pornography is benign. If the PTA and Decency groups really feared that pornography causes misbehavior, surely they would not place the community in danger by showing pornography to their members. . . ." The writer concluded that "to force an experience off on persons who probably will find it unpleasant, and then to call for its suppression . . . is an odd way of law-making."—RLF

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